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Report
No. 97-550

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ORIGINAL

VETERANS' COMPENSATION, EDUCATION, AND EMPLOYMENT AMENDMENTS OF 1982

REPORT

OF THE

COMMITTEE ON VETERANS' AFFAIRS
UNITED STATES SENATE

TO ACCOMPANY

S. 2913

September 17 (legislative day, September 8), 1982.—Ordered to be printed

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97TH CONGRESS
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REPORT
No. 97-550

VETERANS' COMPENSATION, EDUCATION, AND EMPLOYMENT AMENDMENTS OF 1982

SEPTEMBER 17 (legislative day, SEPTEMBER 8, 1982.—Ordered to be printed

Mr. THURMOND, (for Mr. SIMPSON), from the Committee on Veterans' Affairs, submitted the following

REPORT

[To accompany S. 2913]

The Committee on Veterans' Affairs, to which was referred the bill (S. 2913) to amend title 38, United States Code, to increase the rates of disability compensation for disabled veterans, to increase the rates of dependency and indemnity compensation for surviving spouses and children of disabled veterans, and to modify and improve education and vocational rehabilitation programs administered by the Veterans' Administration and veterans' employment programs administered by the Department of Labor; and for other purposes, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

TEXT OF THE BILL, S. 2913

The text of the bill as reported is as follows:

That (a) this Act may be cited as the "Veterans' Compensation, Education, and Employment Amendments of 1982".

(b) Except as otherwise specifically provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

TITLE I—COMPENSATION AND DEPENDENCY AND INDEMNITY COMPENSATION RATE INCREASES AND PROGRAM IMPROVEMENTS

PART A.—RATE INCREASES

RATES OF DISABILITY COMPENSATION

SEC. 101. (a) Section 314 is amended—

(1) by striking out "$58" in subsection (a) and inserting in lieu thereof "$62";

(2) by striking out "$107" in subsection (b) and inserting in lieu thereof "$114";

(3) by striking out "$162" in subsection (c) and inserting in lieu thereof "$173";

(4) by striking out "$232" in subsection (d) and inserting in lieu thereof "$249";

(5) by striking out "$328" in subsection (e) and inserting in lieu thereof "$352";

(6) by striking out "$413" in subsection (f) and inserting in lieu thereof "$443";

(7) by striking out "$521" in subsection (g) and inserting in lieu thereof "$559";

(8) by striking out "$604" in subsection (h) and inserting in lieu thereof "$648";

(9) by striking out "$679" in subsection (i) and inserting in lieu thereof "$729";

(10) by striking out "$1,130" in subsection (j) and inserting in lieu thereof "$1,213";

(11) by striking out "$1,403" and "$1,966" in subsection (k) and inserting in lieu thereof "$1,506 and "$2,111", respectively;

(12) by striking out "$1,403" in subsection (l) and inserting in lieu thereof "$1,506";

(13) by striking out "$1,547" in subsection (m) and inserting in lieu thereof "$1,661";

(14) by striking out "$1,758" in subsection (n) and inserting in lieu thereof "$1,888";

(15) by striking out "$1,966" each place it appears in subsections (o) and (p) and inserting in lieu thereof "$2,111";

(16) by striking out "$844" and "$1,257" in subsection (r) and inserting in lieu thereof "$906"and "$1,350, respectively;

(17) by striking out "$1,264" in subsection (s) and inserting in lieu thereof "$1,357"; and

(18) by striking out "$244" in subsection (t) and inserting in lieu thereof "$262";

(b) The Administrator of Veterans' Affairs may adjust administratively, consistent with the increases authorized by this section, the rates of disability compensation payable to persons within the purview of section 10 of Public Law 85-857 who are not in receipt of compensation payable pursuant to chapter 11 of title 38, United States Code.

RATES OF ADDITIONAL COMPENSATION FOR DEPENDENTS

SEC. 102. Section 315(1) is amended—

(1) by striking out clauses (A) through (G) and inserting in lieu thereof the following;

"(A) has a spouse but no child, $74;

"(B) has a spouse and one or more children, $124 plus $40 for each child in excess of one;

"(C) has no spouse but one or more children, $50 plus $40 for each child in excess of one;";

(2) by redesignating clauses (H), and (I), and (J) as clauses (D), (E), and (F), respectively;

(3) by striking out "$56" in clause (D) (as redeisgnated by clause (2) of this section) and inserting in lieu thereof "$60";

(4) by striking out "$125" in clause (E) (as redeisgnated by clause (2) of this section) and inserting in lieu thereof "$134"; and

(5) by striking out "$105" in clause (F) (as redeisgnated by clause (2) of this section) and inserting in lieu thereof "$112";

CLOTHING ALLOWANCE FOR CERTAIN DISABLED VETERANS

SEC. 103. Section 362 is amended by striking out "$305" and inserting in lieu thereof "$327".

RATES OF DEPENDENCY AND INDEMNITY COMPENSATION FOR SURVIVING SPOUSES

SEC. 104. (a) Section 411(a) is amended to read as follows:

"(a) Dependency and indemnity compensation shall be paid to a surviving spouse, based on the pay grade of the person upon whose death entitlement is predicated, at monthly rates set forth in the following table:

(b)(1) Chapter 34 is amended by adding at the end the following new section:

"§ 1694. Reimbursement by the Secretary of Defense

"The Secretary of Defense shall reimburse the Administrator for all amounts of educational or training assistance allownaces paid by the Adminstrator under this chapter or chapter 36 of this title after December 31, 1989.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"1694. Reimbursement by the Secretary of Defense.".

REPEAL OF 50-PERCENT RULE

SEC. 205. (a) Section 1673(a) is amended—

(1) by striking out "(1)" before "The";

(2) by striking out paragraph (2) in its entirety;

(3) by redesignating clauses (A), (B), (C), and (D) as clauses (1), (2), (3), and (4), respectively; and

((4) by striking out clause (2) (as redesignated by clause (3) of this subsection) and inserting in lieu thereof the following:

"(2) any sales or sales management course which does not provide specialized training within a specific vocational field;".

"Pay grade	Monthly rate	"Pay grade	Monthly rate
E-1	$445	W-4	$639
E-2	$459	0-1	$563
E-3	$470	0-2	$582
E-4	$500	0-3	$622
E-5	$514	0-4	$658
E-6	$526	0-5	$726
E-7	$552	0-6	$817
E-8	$582	0-7	$884
E-9	[1] $608	0-8	$969
W-1	$663	0-9	$1,041
W-2	$586	0-10	[2] $1,139
W-3	$603		

"[1] If the veteran served as sergeant major of the Army, senior enlisted advisor of the Navy, chief master sergeant of the Air Force, sergeant major of the Marine Corps, or master chief petty officer of the Coast Guard, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $655.

"[2] If the veteran served as Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, or Commandant of the Marine Corps, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $1,222.

(b) Subsection (b) of such section is amended by striking out "$48" and inserting in lieu thereof "$51".

(c) Subsection (c) of such section is amended by striking out "$125" and inserting in lieu thereof "$134".

(d) Subsection (d) of such section is amended by striking out "$62" and inserting in lieu thereof "$66".

RATES OF DEPENDENCY AND INDEMNITY COMPENSATION FOR CHILDREN

SEC. 105. Section 413 is amended—

(1) by striking out "$210" in clause (1) and inserting in lieu thereof "$225";

(2) by striking out "$301" in clause (2) and inserting in lieu thereof "$323";

(3) by striking out "$389" in clause (3) and inserting in lieu thereof "$417"; and

(4) by striking out "$389" and "$79" in clause (4) and inserting in lieu thereof "$417" and "$84", respectively.

RATES OF SUPPLEMENTAL DEPENDENCY AND INDEMNITY COMPENSATION FOR CHILDREN

SEC. 106. Section 414 is amended—

(1) by striking out "$125" in subsection (a) and inserting in lieu thereof "$134";

(2) by striking out "$210" in subsection (b) and inserting in lieu thereof "$225"; and

(3) by striking out "$107" in subsection (c) and inserting in lieu thereof "$114".

PART B.—COMPENSATION AND DEPENDENCY AND INDEMNITY COMPENSATION IMPROVEMENTS

INCREASE COMPENSATION RATE FOR CERTAIN BLINDED VETERANS

SEC. 110. Section 314(n) is amended by inserting "or has suffered total blindness without light perception in both eyes," after "anatomical loss of both eyes,".

ENTITLEMENT TO CERTAIN DEPENDENCY AND INDEMNITY COMPENSATION

SEC. 111. Section 410(b)(1) is amended by inserting "or but for a clear and unmistakable error would have been" after "was" the first two places it appears.

PART C.—SUPERSESSION OF CERTAIN PROVISIONS

SEC. 120. The provisions of this title shall supersede the provisions of section 405 of the Omnibus Reconciliation Act of 1982 (Public Law 97-253; 96 Stat. 803).

TITLE II—VETERANS' EDUCATION AND REHABILITATION PROGRAMS AMENDMENTS

VETERANS OUTREACH SERVICES PROGRAM

SEC. 201. Section 243 is amended to read as follows: "The Administrator may assign veterans representatives to educational institutions or other appropriate locations as necessary (1) to provide assistance in connection with the provision of benefits under this title to veterans and eligible persons, and (2) to provide outreach services under this subchapter.".

REHABILITATION PROGRAM SUBSISTENCE ALLOWANCE

SEC. 202. Section 1508(g)(2) is amended—

(1) by inserting "not" after "shall"; and

(2) by striking out all after "felony" and inserting in lieu thereof a period.

CALCULATION OF LUMP-SUM PAYMENTS; USE OF POST-VIETNAM ERA VETERANS' EDUCATION ACCOUNT

SEC. 203. Section 1622 is amended—

(1) by striking out in subsection (d) "$75" and inserting in lieu thereof "$100"; and

(2) by adding at the end the following new subsection:

"(e) The Administrator may receive from the Secretary and disburse on behalf of the Secretary funds for administering the education assistance program authorized by section 2141 of title 10 and may use the fund for such purpose.".

REPEAL OF 1989 TERMINATION DATE

SEC. 204. (a) Section 1662 is amended by striking out subsection (e) in its entirety.

(b) Section 1723(a) is amended—

(1) by striking out "(1)" before "The";

(2) by striking out paragraph (2) in its entirety;

(3) by redesignating clauses (A), (B), (C), and (D) as clauses (1), (2), (3), and (4), respectively; and

(4) by striking out claused (2) (as redesignated by clause (3) of this section) and inserting in lieu thereof the following:

"(2) any sales or sales management course which does not provide specialized training within a specific vocational field;".

ADMINISTRATIVE AND TECHNICAL AMENDMENTS

SEC. 206. (a) Section 1652(b) is amended by striking out "402(a) of the Economic Opportunity Act of 1964 (42 U.S.C. 2902(a))" and inserting in lieu thereof "section 7(i) of the Small Business Act (15 U.S.C. 636(i))".

(b) Section 1673(d) is amended by inserting "except to the extent provided for in section 1691(c) of this title" after "subchapter V" in the first sentence.

(c) Section 1682 is amended—

(1) by amending subsection (a)(1) by striking out "or (c)" and inserting in lieu thereof "(c), or (g)";

(2) by amending subsection (e)—

(A) in the first sentence by inserting "(2)" after "subsection (b)"; and

(B) in the second sentence by striking out "at" and inserting in lieu thereof "in accordance with the rate at which training is pursued, but in no event at more than"; and

(3) by amending subsection (g)—

(A) by inserting at the end of paragraph (1) the following new sentence: "Except for the payment of the educational assistance allowance for necessary supplies, books, and equipment required of similarly circumstanced nonveterans, no amount shall be payable to a veteran while so incarcerated for any course for which no tutition or fees are charged."; and

(B) by amending paragraph (2)—

(i) by inserting "not" after "shall"; and

(ii) by striking out all after "felony" and inserting in lieu thereof a period.

(d) Section 1780(a) is amended—

(1) by striking out "1504" and inserting in lieu thereof "1508";

(2) by inserting "or" at the end of clause (4);

(3) by striking out the semicolon and "or" at the end of clause (5) and inserting in lieu thereof a period; and

(4) by striking out clause (6) in its entirety.

(e) Section 1798(e)(3) is amended by striking out all after the first sentence.

AUTHORITY TO SUSPEND GI BILL BENEFITS IN CERTAIN CASES

SEC. 207. Section 1790(b) is amended—

(1) in paragraph (2) by striking out "Any" and inserting in lieu thereof "Except as provided in paragraph (3) of this subsection, any"; and

(2) by adding at the end the following new paragraph:

"(3)(A) The Administrator may suspend educational assistance to eligible veterans and eligible persons already enrolled, and may disapprove the enrollment or reenrollment of any eligible veteran or eligible person, in any course as to which the Administrator has evidence showing a substantial pattern of eligible veterans or eligible persons, or both, who are receiving such assistance by virtue of their enrollment in such course but who are not entitled to such assistance because (i) the course approval requirements of this chapter are not being met, or (ii) the educational institution offering such course has violated one or more of the recordkeeping or reporting requirements of this chapter or chapter 32, 34, 35 of this title.

"(B)(i) Action may be taken under subparagraph (A) of this paragraph only if (I) the Administrator has provided the State approving agency concerned and such institution with written notification of any such failure to meet such approval requirements and any such violation of such recordkeeping or reporting requirements, (II) such institution (aa) has refused to take corrective action, or (bb) within sixty days after such notification (or within such other reasonable period as the Administrator determines is appropriate) has failed to take corrective action, and (III) the Administrator has, not less than thirty days prior to taking action under such subparagraph, provided each eligible veteran and eligible person already enrolled in such course with written notification of the Administrator's intention to take such action, together with the reasons therefor, if such corrective action is not taken within such sixty days (or within such other reasonable period as the Administrator has determined is appropriate) and of the date on which the Administrator intends to take action under such subparagraph.".

CLARIFICATION OF TARGETED DELIMITING DATE EXTENSION

SEC. 208. (a) Section 1662(a)(3) is amended—

(1) by striking out "may" in subparagraph (C)(i) and inseting in lieu thereof "shall" and by striking out "only if the veteran has been determined by the Administrator to be in need of such a program or course in order to achieve a suitable occupational or vocational objective" and inserting in lieu thereof "unless the Administrator determines, based on an examination of the veteran's employment and training history, that the veteran is not in need of such a program or course in order to obtain a reasonably stable employment situation consistent with the veteran's abilities and aptitudes"; and

(2) by striking out "1983" in subparagraph (D) and inserting in lieu thereof "1984".

(b)(1) Not later than thirty days after the date of the enactment of this Act, the Administrator of Veterans' Affairs shall publish in the Federal Register, for public review and comment for a period not to exceed thirty days, proposed regulations under section 1662(a)(3)(C)(i) of title 38, United States Code, as amended by subsection (a) of this section.

(2) Not later than ninety days after the date of the enactment of this Act, the Administrator shall publish in the Federal Register final regulations under such section 1662(a)(3)(C)(i) as so amended.

TOLLING DELIMITING DATES BY REASON OF DRUG AND ALCOHOL CONDITIONS

SEC. 209. (a) Section 1503(b)(1) is amended—

(1) by inserting "(A)" before "In"; and

(2) by inserting at the end the following new subparagraph:

"(B)(i) subject to divisions (iii) and (iv) of this subparagraph, in any case in which the Administrator determines that a veteran has been prevented from participating in a vocational rehabilitation program under this chapter within the period of eligibility prescribed in subsection (a) of this section because a condition described in division (ii) of this subparagraph made it infeasible for such veteran to participate in such a program, the twelve-year period of eligibility shall not run during the period of time that such veteran was so prevented from participating in such a program.

"(ii) The condition referred to in division (i) of this subparagraph as described in this division is an alcohol or drug dependence or abuse condition of a veteran in a case in which it is determined, under regulations which the Administrator shall prescribe, that—

"(I) such veteran (aa) has received recognized treatment for such condition, or (bb) has participated in a program of rehabilitation for such condition, and

"(II) such condition is sufficiently under control to enable such veteran to participate in a vocational rehabilitation program under this chapter.

"(iii) Subdivision (i) of this subparagraph applies only if the veteran has filed an application under this paragraph within one year after (I) the last date of the period of eligibility otherwise applicable under this section, (II) the termination of the last period of such treatment or such program of rehabilitation, or (III) the date on which final regulations prescribed pursuant to division (i) of this subparagraph are published in the Federal Register, whichever is the latest.

"(iv) The period of time during which, pursuant to division (i) of this subparagraph, the twelve-year period of eligibility does not run shall be limited to the period during which the veteran was receiving treatment or the period of time the veteran was participating in a program of rehabilitation for such condition plus such additional length of time as the veteran demonstrates, to the satisfaction of the Administrator, that the veteran was prevented by such condition from participating in a vocational rehabilitation program under this chapter, but in no event shall such period of time be more than four years.

"(v) When, pursuant to division (i) of this subparagraph, a period of eligibility does not run for a period of time, such period of eligibility shall again begin to run on the first day, following such condition becoming sufficiently under control to enable such veteran to participate in such a program of vocational rehabilitation, on which it is reasonably feasible, as determined under such regulations, for such veteran to participate in such a program.".

(b) Section 1662(a) is amended—

(1) in paragraph (1)—

(A) by inserting "or because of a condition (and under the circumstances) described in paragraph (4) of this subsection" after "misconduct"; and

(B) by inserting "(except as provided in paragraph (4)(B)(ii) of this subsection)" after "length of time"; and

(C) by inserting "because of such disability" after "sentence"; and

(2) by inserting at the end the following new paragraph:

"(4)(A) A condition referred to in paragraph (1) of this subsection as described in this paragraph is an alcohol or drug dependence or abuse condition of a veteran in a case in which it is determined, under regulations which the Administrator shall prescribe, that—

"(i) such veteran (I) has received recognized treatment for such condition, or (II) has participated in a program of rehabilitation for such condition, and

"(ii) such condition is sufficiently under control to enable such veteran to pursue such veteran's chosen program of education under this chapter.

"(B)(i) Notwithstanding the provisions of paragraph (1) of this subsection, a veteran may be granted an extension of the applicable delimiting period because of such condition upon application for such extension made within one year after (i) the last date of the delimiting period otherwise applicable under this section, (II) the termination of the last period of such treatment or such program of rehabilitation, or (III) the date on which final regulations prescribed pursuant to subparagraph (A) of this paragraph are published in the Federal Register, whichever is the latest.

"(ii) An extension of the applicable delimiting period because of such condition shall be limited to the period of time the veteran was receiving treatment or the period of time the veteran was participating in a program of rehabilitation for such condition plus such additional length of time as the veteran demonstrates, to the satisfaction of the Administrator, that the veteran was prevented by such condition from initiating or completing such program of education, but in no event shall the extension be for more than four years. When such extension is granted, the delimiting period with respect to such veteran will again begin running on the first day, following such condition becoming sufficiently under control to enable such veteran to pursue such veteran's chosen program of education under this chapter, on which it is reasonably feasible, as determined in accordance with such regulations, for such veteran to initiate or resume pursuit of a program of education with educational assistance under this chapter.".

(c) Section 1712(b) is amended—

(1) in paragraph (2)—

(A) by inserting "or because of a condition (and under the circumstances) described in pargraph (3)(A) of this subsection" after "misconduct";

(B) by inserting "(except as provided in paragraph (3) (B) (ii) of this subsection)" after "length of time"; and

(C) by inserting "because of such disability" after "sentence": and

(2) by inserting at the end the following new paragraph:

"(3) (A) A condition referred to in paragraph (2) of this subsection as described in this paragraph is an alcohol or drug dependence or abuse condition of an eligible person in a case in which it is determined, under regulations which the Administrator shall prescribe, that—

"(i) such person (I) has received recognized treatment for such condition, or (II) has participated in a program of rehabilitation for such condition, and

"(ii) such condition is sufficiently under control to enable such person to pursue such person's chosen program of education under this chapter.

"(B) (i) Notwithstanding the provisions of paragraph (2) of this subsection, an eligible person may be granted an extension of the applicable delimiting period because of such condition upon application for such extension made within one year after (I) the last date of the delimiting period otherwise applicable under this section, (II) the termination of the last period of such treatment or such program of rehabilitation, or (III) the date on which final regulations prescribed pursuant to subparagraph (A) of this paragraph are published in the Federal Register, whichever is the latest.

"(ii) An extension of the applicable delimiting period because of such condition shall be limited to the period of time the eligible person was receiving treatment or the period of time such person was participating in a program of rehabilitation for such condition plus such additional length of time as such person demonstrates, to the satisfaction of the Administrator, that such person was prevented by such condition from initiating or completing such program of education, but in no event shall the extension be for more than four years. When such extension is granted, the delimiting period with respect to such person will again begin running on the first day, following such condition becoming sufficiently under control to enable such person to pursue such person's chosen program of education under this chapter, on which it is reasonably feasible, as determined in accordance with such regulations, for such person to initiate or resume pursuit of a program of education with educational assistance under this chapter.".

TITLE III—VETERANS' EMPLOYMENT AMENDMENTS

CONGRESSIONAL FINDINGS

SEC. 301. The Congress makes the following findings:

(1) There exists serious unemployment and underemployment among disabled veterans and veterans of the Vietnam era.

(2) Alleviating unemployment and underemployment among such veterans is a national responsibility.

(3) Because of the special nature of such veterans employment and training problems and the national responsibility to meet those problems, policies and programs to address those problems need to be effectively and vigorously implemented by the Secretary of Labor through the Assistant Secretary of Labor for Veterans' Employment.

PURPOSE OF JOBS TRAINING PROGRAMS

SEC. 302. Section 2002 is amended—

(1) by inserting "and regulations" after "to this end policies"; and

(2) by inserting a comma and "with priority given to the needs of disabled veterans and veterans of the Vietnam era," after "opportunities".

STATE AND ASSISTANT DIRECTORS FOR EMPLOYMENT

SEC. 303. (a)(1) Section 2003 is amended by striking out the section heading and all of the matter preceding clause (1) and inserting in lieu thereof the following:

"§ 2003. State and Assistant State Directors for Veterans' Employment

"(a) The Secretary of Labor shall assign to each State a representative of the Veterans' Employment Service who shall serve as the State Director for Veterans' Employment, and shall assign full-time clerical support to each such Director. The Secretary shall also assign to each State one Assistant State Director for Veterans' Employment per each 250,000 veterans and eligible persons of the State veterans population and such additional Assistant State Directors for Veterans' Employment as the Secretary shall determine, based on the data collected pursuant to section 2007 of this title, as are necessary to carry out effectively the purposes of this chapter. Full-time Federal clerical support personnel assigned to State Directors for Veterans' Employment shall be appointed in accordance with the provisions of title 5 governing appointments in the competitive service and shall be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of such title.

"(b) Each State Director for Veterans' Employment and each Assistant State Director for Veterans' Employment assigned to serve in any State (1) shall be an eligible veteran who at the time of appointment has been (A) a bona fide resident of the State for at least two years, or (B) if the Secretary, through the Assistant Secretary of Labor for Veterans' Employment, determines after a good faith search within the State that there is no eligible veteran available for appointment who meets such requirement and who is also qualified for the position, an Assistant State Director for Veterans' Employment for at least one year in any other State, and (2) shall be appointed in accordance with the provisions of title 5 governing appointments in the competitive service and be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of such title.

"(c) Each State Director for Veterans' Employment and Assistant State Director for Veterans' Employment shall be attached to the public employment service system of the State to which such Director is assigned. Such Director shall be administratively responsible to the Secretary of Labor for the execution of the veterans' and eligible persons' counseling and placement policies of the Secretary through the public employment service system and in cooperation with other employment and training programs administered by the Secretary, by other Federal jobs training program grantees in the State, or directly by the State.

"(d) In cooperation with the staffs of the public employment service system and of each other program in the state described in subsection (c) of this section, the State Director for Veterans' Employment for the State and the Assistant State Director for Veterans' Employment for the State shall—".

(2) The item relating to section 2003 in the table of sections at the beginning of chapter 41 is amended to read as follows:

"2003. State and Assistant State Directors for Veterans' Employment.".

(b) Clause (6) of such section is amended to read as follows:

"(6) promote the participation of veterans in Federal employment and training programs and monitor the implementation and operation of such programs to ensure that eligible veterans, disabled veterans, and veterans of the Vietnam era receive such special consideration or priority in the provision of services as is required by law or regulation;".

(c) Such section is further amended by striking out the period at the end of clause (7) and inserting in lieu thereof a semicolon and adding at the end the following:

"(8) supervise the listing of jobs and subsequent referrals of qualified veterans as required by section 2010 of this title;

"(9) be responsible for ensuring that complaints of discrimination filed under section 2012 of this title are resolved in a timely fashion;

"(10) working closely with appropriate Veterans' Administration officials, cooperate with employers in identifying disabled veterans who have completed or are enrolled in training under chapter 31 of this title;

"(11) cooperate with the directors of the veterans assistance offices established under section 242 of this title in identifying and assisting veterans who have readjustment problems and who may need employment placement assistance or vocational training assistance; and

"(12) in the case of disabled veterans, when requested by Federal and State agencies and private employers, assist those entities in identifying and acquiring prosthetic and sensory aids and devices which tend to enhance disabled veterans' employability.".

DISABLED VETERANS' OUTREACH PROGRAM SPECIALISTS

Sec. 304. (a) Section 2003A(a) is amended—

(1) in paragraphs (1) and (3), by striking out "available to" and inserting in lieu thereof "available for use in";

(2) in paragraph (2), by striking out "provided to" and inserting in lieu thereof "provided for use in"; and

(3) by adding at the end the following new paragraph:

"(5) The distribution and use of funds provided for use in States under this section shall be subject to the continuing supervision and monitoring of the Assistant Secretary for Veterans' Employment and shall not be governed by the provisions of any other law, or regulation prescribed thereunder, that is inconsistent with the provisions of this section.".

(b) Subsection (b)(2) of such section is amended—

(1) by inserting a comma and "except that the Secretary, after consultation with the appropriate State Directors assigned under section 2003 of this title, may grant waivers of such limitation as long as the percentage of such specialists so stationed in all States does not exceed 80 percent of such specialists stationed in all States" after "such State"; and

(2) by striking out "section 621A" and inserting in lieu thereof "section 612A".

(c) Subsection (c) of such section is amended—

(1) by striking out "prime sponsors under the Comprehensive Employment and Training Act" in paragraph (4) and inserting in lieu thereof "appropriate grantees under other Federal employment and training programs"; and

(2) by adding at the end the following new paragraph:

"(8) Development of outreach programs in cooperation with the Veterans' Administration's vocational rehabilitation staff, with institutions of higher learning, and with employers to assure maximum assistance to disabled veterans who have completed or are enrolled in training under chapter 31 of this title.".

(d) Section 2003A is further amended——

(1) by striking out subsection (d) in its entirety;

(2) by redesignating subsection (e) as subsection (d); and

(3) by adding at the end of subsection (d) (as redesignated by clause (2) of this subsection) the following new sentence: "In administering the program provided for in this section, the Assistant Secretary of Labor for Veterans' Employment shall monitor the appointment of veterans to serve as disabled veteran outreach program specialists to ensure that appointments are made in accordance with the preference requirements prescribed in subsection (a)(2) of this section.".

ESTIMATES OF FUNDS FOR ADMINISTRATION

Sec. 305. (a) Section 2006(a) is amended—

(1) by inserting in the first sentence "and chapters 42 and 43 of this title" after "of this chapter";

(2) by adding after the third sentence the following new sentence: "Estimates referred to in the preceding sentence shall include amounts necessary to fund the disabled veterans' outreach program under section 2003A of this title and shall be approved by the Secretary of Labor only if the level of funding proposed is in compliance with such section."; and

(3) by adding at the end the following new sentence: "The Secretary shall carry out the provisions of this subsection through the Assistant Secretary for Veternas' Employment.".

(b) Subsection (d) of such section is amended by inserting a comma and "upon the recommendation of the Assistant Secretary of Labor for Veterans' Employment," after "Secretary of Labor".

ANNUAL REPORT TO CONGRESS

Sec. 306. Section 2007(c) is amended by adding at the end the following new sentence: "The report shall also include a report on activities carried out under section 2003A of this title.".

APPLICABILITY OF CHAPTER 42 PROGRAMS

Sec. 307. Section 2011(5) is amended to read as follows:

"(5) The terms 'department or agency' and 'department, agency, and instrumentality in the executive branch' each mean any agency of the Federal Government or the District of Columbia, including any Executive agency as defined in section 105 of title 5, and the United States Postal Service and the Postal Rate Commission.".

REPORTS OF CONTRACTORS ON VETERANS' EMPLOYMENT EMPHASIS

Sec. 308. (a) Section 2012 is amended by adding at the end the following new subsection:

"(d)(1) Each contractor with respect to which subsection (a) of this section applies shall report at least annually to the Secretary of Labor on the number of veterans of the Vietnam era and the number of special disabled veterans in the work force of such contractor by job category and hiring location.

"(2) The Secretary of Labor shall insure that the administration of the reporting requirement under paragraph (1) of this subsection is coordinated with respect to requirements for the contractor to make other reports to the Secretary of Labor.".

(b) Within ninety days after the date of the enactment of this Act, the Secretary of Labor shall prescribe regulations implementing the amendment made by subsection (a).

JURISDICTION OF ASSISTANT SECRETARY OF LABOR FOR VETERANS' EMPLOYMENT

Sec. 309. (a) Section 2025 is amended to read as follows:

§ 2025. Jurisdiction; assistance in obtaining reemployment

"(a) The Secretary of Labor shall carry out the provisions of this chapter through the Assistant Secretary of Labor for Veterans' Employment.

"(b) The Secretary shall render aid in the replacement in their former positions or reemployment of persons who have satisfactorily completed any period of active duty in the Armed Forces or the Public Health Service. In rendering such aid, the Secretary shall use existing Federal and State agencies engaged in similar or related activities and shall utilize the assistance of volunteers.".

(b) The item relating to section 2025 in the table of sections at the beginning of chapter 43 is amended to read as follows:

"2025. Jurisdiction; assistance in obtaining reemployment.".

REPEAL OF EXEMPLARY REHABILITATION CERTIFICATES PROGRAM

Sec. 310. Section 6 of Public Law 90-83 (81 Stat. 221; 29 U.S.C. 601-607) is repealed.

TITLE IV—MISCELLANEOUS IMPROVEMEMT

ASSIGNMENTS BY VA INSURANCE BENEFICIARIES

SEC. 401. (a) Sections 718 is amended by inserting at the end the following new subsection:

"(c) Except as to insurance granted under section 722(b) of this title, in any case involving a dispute between two or more persons, each of whom is claiming proceeds of a policy maturing on or after the date of the enactment of this subsection, an assignment of all or any portion of the proceeds to a person other than a person specified in subsection (b) of this section is authorized to resolve such dispute if the proposed assignee claims such proceeds on the grounds that—

"(1) the insured during such insured's lifetime designated such proposed assignee as the beneficiary;

"(2) the insured contracted during such insured's lifetime with such proposed assignee to designate such proposed assignee as the beneficiary; or

"(3) such proposed assignee was named, during such insured's lifetime, in a judicial order or decree as a person whom the insured was ordered to designate as the beneficiary or to retain as the designated beneficiary.

Except in cases in which the insurance proceeds are payable in a lump sum, the designated contingent beneficiary, if any, must join in any such assignment by a person upon whose death or disqualification such contingent beneficiary's claim to the proceeds would be predicated.".

(b) Section 753 is amended—

(1) by inserting "(a)" before "Any"; and

(2) by adding at the end the following new subsection:

"(b) In any case involving a dispute between two or more persons, each of whom is claiming proceeds of a policy maturing on or after the date of the enactment of this subsection, an assignment of all or any portion of the proceeds to a person other than a person specified in subsection (a) of this section is authorized to resolve such dispute if the proposed assignee claims such proceeds on the grounds that—

"(1) the insured during such insured's lifetime designated such proposed assignee as the beneficiary;

"(2) the insured contracted during such insured's lifetime with such proposed assignee to designate such proposed assignee as the beneficiary; or

"(3) such proposed assignee was named, during such insured's lifetime, in a judicial order or decree as a person whom the insured was ordered to designate as the beneficiary or to retain as the designated beneficiary.

Except in cases in which the insurance proceeds are payable in a lump sum, the designated contingent beneficiary, if any, must join in any such assignment by a person upon whose death or disqualification such contingent beneficiary's claim to the proceeds would be predicated.".

REMOVAL OF TIME RESTRICTION FOR FILING INSURANCE CLAIMS

SEC. 402. Section 770 is amended—

(1) by amending subsection (c) by striking out the second sentence; and

(2) by adding at the end the following new subsection:

"(h) Under no circumstances shall insurance payable under this subchapter escheat to a State, and payment shall not be made to the insured's estate or the estate of any beneficiary unless it is affirmatively shown that any sum to be paid will not escheat.".

BURIAL BENEFITS FOR CERTAIN INDIGENT VETERANS OF WARTIME SERVICE

SEC. 403. Section 902 is amended by adding at the end the following new subsection:

"(c)(1) For the purposes of this section, a deceased veteran of any war or a deceased veteran who was discharged or released from active military, naval, or air service for a service-connected disability shall be deemed to have been in receipt of pension at the time of such veteran's death if a State or political subdivision of a State certifies in writing to the Administrator that—

"(A) there is no next of kin or other person claiming the body of such deceased veteran;

"(B) such State or political subdivision has assumed responsibility for the burial and funeral expenses of such deceased veteran; and

"(C) there is not available, other than from such State or political subdivision, an amount of resources or funds sufficient to cover the burial and funeral expenses of such deceased veteran.

"(2) The payment made on behalf of such deceased veteran under subsection (a) of this section as a result of paragraph (1) of this subsection shall, notwithstanding the provisions of subsection (b) of this section, be paid to such State or political subdivision and shall be the lesser of $300 or the actual burial and funeral expenses incurred by such State or political subdivision.".

GUARANTEED LOANS TO REFINANCE LIENS ON MANUFACTURED HOMES AND TO PURCHASE MANUFACTURED HOME LOTS; CHANGE IN NOMENCLATURE

SEC. 404. (a) Section 1819(a) is amended—

(1) by striking out "one of the following purposes" and inserting in lieu thereof "the purpose or purposes specified in one of the following clauses";

(2) in paragraph (1), by inserting at the end the following new clause:

"(G)(i) To refinance in accordance with paragraph (5) of this subsection an existing loan that was made for the purchase of and is secured by a manufactured home, and (ii) to purchase a lot on which such manufactured home is or will be placed.";

(3) in paragraph (2), by striking out "any of the purposes described in paragraph (1) of this subsection" and inserting in lieu thereof "a purpose specified in any one of the clauses (A) through (E) or (G) of paragraph (1) of this subsection or for the purposes specified in clause (G) of such paragraph";

(4) in paragraph (3), by striking out "(C) or (E)" and inserting in lieu thereof "(C), (E), or (G)"; and

(5) by inserting at the end the following new paragraph:

"(5)(A) For a loan to be guaranteed for the purposes specified in clause (G) of paragraph (1) of this subsection—

"(i) the loan must be secured by the same manufactured home as was the loan being refinanced and such manufactured home must be owned and occupied by the veteran as such veteran's home; and

"(ii) the amount of the loan may not exceed an amount equal to the sum of—

"(I) the purchase price of the lot,

"(II) the amount (if any) determined by the Administrator to be appropriate under paragraph (2) of this subsection to cover the cost of necessary preparation of such lot,

"(III) the balance of the loan being refinanced, and

"(IV) such closing costs (including any discount permitted pursuant to section 1803(c)(3)(B) of this title) as may be authorized by the Administrator, under regulations which the Administrator shall prescribe, to be included in such loan.

"(B) When a loan is made to a veteran for the purposes specified in clause (G) of paragraph (1) of this subsection, and the loan being refinanced was guaranteed, insured, or made under this section, the portion of the loan made for the purpose of refinancing such loan may be guaranteed by the Veterans' Administration under this chapter without regard to the amount of outstanding guaranty entitlement available for use by such veteran, and the amount of such veteran's guaranty entitlement shall not be charged as a result of any guaranty provided for such purpose. For the purposes of section 1802(b) of this title, such portion of such loan shall be deemed to have been obtained with the guaranty entitlement used to obtain the loan being refinanced.".

(b) Section 1803(c)(3) is amended—

(1) by striking out "or" at the end of clause (C);

(2) by striking out the period at the end of clause (D) and inserting in lieu thereof a semicolon and "or"; and

(3) by inserting at the end the following new clause:

"(E) to refinance indebtedness and purchase a manufactured-home lot pursuant to section 1819(a)(1)(G) of this title, but only with respect to that portion of the loan used to refinance such indebtedness.".

(c)(1) Section 1811 is amended—

(A) by striking out in subsection (c)(1) "mobile home" and inserting in lieu thereof "manufactured home"; and

(B) by striking out in subsection (d)(1) "mobile home" and inserting in lieu thereof "manufactured home".

(2) Section 1819 is further amended—

(A) by striking out "mobile home" each place it appears and inserting in lieu thereof "manufactured home";

(B) by striking out "mobile homes" each place it appears and inserting in lieu thereof "manufactured homes";

(C) by striking out "mobile-home" both places it appears in subsection (a)(4)(A)(ii) and inserting in lieu thereof "manufactured-home"; and

(D) by amending the catchline to read as follows:

"§ 1819. Loans to purchase manufactured homes and lots".

(3) The table of sections at the beginning of chapter 37 is amended by amending the item related to section 1819 to read as follows:

"1819. Loans to purchase manufactured homes and lots.".

PERIOD FOR REQUEST OF OVERPAYMENT WAIVER

SEC. 405. Section 3102(a) is amended—

(1) by striking out "two years" and inserting in lieu thereof "one hundred and eighty days"; and

(2) by inserting a comma and "or within such longer period as the Administrator determines is reasonable in a case in which the payee demonstrates to the satisfaction of the Administrator that such notification was not actually received by such payee within a reasonable period after such date" after "payee".

MINIMUM SERVICE REQUIREMENT

SEC. 406. (a) Section 3103A is amended—

(1) by redesignating subsection (d) as subsection (e) and inserting after subsection (c) the following new subsection:

"(d)(1) Notwithstanding any other provision of law and except as provided in paragraph (3) of this subsection, a person described in paragraph (2) of this subsection who is discharged or released from a period of active duty before completing the shorter of—

"(A) twenty-four months of continuous active duty, or

"(B) the full period for which such person was called or ordered to active duty,

is not eligible by reason of such period of active duty for benefits under Federal law (other than a law described in subsection (a) of this section) on the basis of such person's period of active duty, and no dependent or survivor of such person shall be eligible for such benefits on such basis.

"(2) Paragraph (1) of this subsection applies—

"(A) to any person who originally enlists in a regular component of the Armed Forces after September 7, 1980; and

"(B) to any other person who enters on active duty on or after the date of the enactment of this subsection and has not previously completed a continuous period of active duty of at least twenty-four months or been discharged or released from active duty under section 1171 of title 10.

"(3) Paragraph (1) of this subsection does not apply—

"(A) to any person described in this subsection (b)(3) (A), (B), or (C) of this section; or

"(B) to any benefit (i) under the Social Security Act other than additional wages deemed to have been paid, under section 229(a) of the Social Security Act (42 U.S.C. 429(a)), for any calendar quarter beginning on or after the date of the enactment of this subsection, or (ii) under title 5 other than benefits based on meeting the definition of preference eligible in section 2108(3) of such title.";

(2) in subsection (e) (as redesignated by clause (1) of this subsection) by inserting "(including a right to special consideration, preference, priority, or similar advantage)" after "privilege"; and

(3) by adding at the end the following new subsection:

"(f) Nothing in this section shall be construed to deprive any person of any procedural rights, including any rights to assistance in applying for or claiming a benefit.".

(b)(1) Subsection (d) of section 3103A of title 38, United States Code, as added by subsection (a), shall not apply with respect to the receipt by any person of any benefit provided by or pursuant to law before the date of the enactment of this Act.

(2) For the purposes of paragraph (1) of this subsection, additional wages deemed to have been paid under section 229(a) of the Social Security Act (42 U.S.C. 429(a)) shall be considered to be a benefit that was received by a person on the date that

such person is discharged or released from active duty (as defined in section 101(21) of title 38, United States Code).

SEC. 407. Section 977 of title 10, United States Code, is superseded.

CORRESPONDENCE TRAINING

SEC. 408. Notwithstanding any provision of law unless that law is enacted as an amendment to section 1786(a)(3) of title 38, United States Code, in a reconciliation bill pursuant to the Congressional Budget Act of 1974, funds in the Veterans' Administration readjustment benefits account shall be available for payments under paragraph (1) of section 1786(a) of such title for the pursuit of a program of education exclusively by correspondence.

LIMITATIONS ON CONTRACTING OUT

SEC. 409. (a) It is the policy of the United States that the Veterans' Administration shall—

(1) maintain a comprehensive, nationwide health-care system for the direct provision of quality health-care services to eligible veterans; and

(2) provide such services through the most cost-effective means that are consistent with carrying out fully the functions of the Department of Medicine and Surgery of the Veterans' Administration under title 38, United States Code.

(b) Section 5010 is amended by adding at the end the following new subsection:

"(c)(1) Notwithstanding any other provision of law but except as provided in paragraph (2) of this subsection—

"(A) no contract may be entered into as a result of which an activity at a health-care facility over which the Administrator has direct jurisdiction would be converted from an activity performed by employees of the Federal Government to an activity performed by individuals who are employees of a contractor of the Federal Government unless the Chief Medical Director has determined that such activity is not a direct patient care activity or an activity incident to direct patient care; and

"(B) in the case of an activity determined by the Chief Medical Director under clause (A) of this paragraph to be neither such activity, the Administrator, after considering the advice of the Chief Medical Director and the result of a study described in subsection (a) (5) of this section, which study shall be based on an estimate of the most efficient and cost-effective organization for the effective performance of the activity by Veterans' Administration employees, may, in the exercise of the Administrator's sole discretion but only under the conditions described in the following sentence, enter into a contract as a result of which an activity at a health-care facility over which the Administrator has direct jurisdiction would be converted from an activity performed by employees of the Federal Government to an activity performed by individuals who are employees of a contractor of the Federal Government. The Administrator may enter into such a contract only if the Administrator determines that—

"(i) over the proposed duration of the contract the cost to the Federal Government of (I) performing such activity under such contract plus (II) the conduct of such study would be not less than 10 percent lower than the cost of performance of such activity by employees of the Federal Government, and

"(ii) such contract would not result in a reduction in the quantity or qualtiy of health-care services provided to eligible veterans by the Veterans' Administration at such facility.

"(2) The provisions of paragraph (1) of this subsection do not apply (A) to any contract or agreement under chapter 17 or section 5011, 5011A, or 5053 of this title or section 686 of title 31, or (B) to a contract under section 4117 of this title if the Chief Medical Director determines that such contract is necessary to obtain services at a Veterans' Administration facility that could not otherwise be provided at such facility.".

TITLE V—EFFECTIVE DATES

SEC. 501. (a) Except as otherwise provided in subsections (b), (c), (d), (e), and (f) the provisions of this Act shall become effective on October 1, 1982.

(b) The provisions of sections 207, 208, 308(b), and 406 shall be effective on the date of the enactment of this Act.

(c)(1) The provisions of section 111 shall take effect on October 1, 1982.

(2) As soon as practicable after September 30, 1982, the Administrator of Veterans' Affairs shall make a payment to each person who would have been entitled to any payment under section 410(b) of title 38, United States Code, for any portion of the period beginning on October 1, 1978, and ending on September 30, 1982, if the amendment made by section 111 had taken effect on October 1, 1978. Such payment shall be a lump-sum payment in the total amount such person would have been entitled to receive if such amendment had taken effect on October 1, 1978.

(d) The amendment made by section 403 shall apply with respect to burial and funeral expenses incurred after October 1, 1982.

(e) The amendment made by section 405 shall take effect on the one hundred eightieth day after the date of the enactment of this Act.

(f) Section 408 shall take effect on the day after the effective date of any law (i) that is enacted after August 19, 1982, and (ii) that the Administrator of Veterans' Affairs determines to be inconsistent with the provisions of such section.

INTRODUCTION

On April 15, 1982, the Chairman of the Committee, Senator Simpson, introduced five measures at the request of the Administration. The first measure, S. 2378, would provide for an 8.1-percent increase in the rates of disability compnsation and dependency and indemnity compensation (DIC) and proposes amendments to title 38, United States Code, to achieve cost savings in compensation and pension programs. The second Administration-requested measures, S. 2380, would make adjustments and improvements in vocational rehabilitation and education programs administered by the VA. The third measure, S. 2381, would authorize the Administrator of the Veterans' Administration to guarantee loans to refinance liens on mobile homes and to purchase mobile home lots. The fourth and fifth measures pertain to VA insurance programs. S. 2382 would remove the bar against payment of Servicemen's Group Life Insurance and Veterans' Group Life Insurance proceeds in the event the claim is filed late and would clarifly that such proceeds may not escheat to a State. S. 2388 would provide for an expansion of the class of beneficiaries to whom assignments of certain VA life insurance proceeds may be made.

Earlier, on February 2, 1982, Senator Alan Cranston, together with Senators Randolph, Matsunaga, DeConcini, and Mitchell, introduced S. 2048. This measure would restore eligibility for VA burial benefits in the case of certain veterans of war whose bodies are not claimed. Subsequently, Senators Humphrey, Moynihan, Melcher, Andrews, Pell, Heflin, Long, Hawkins, Huddleston, Heinz, and Pryor have cosponsored this measure.

On April 29, 1982, Senator Jennings Randolph introduced S. 2461. This measure would provide increased compensation awards to certain blinded veterans who are suffering from total blindness without light perception.

On June 30, 1982, Senator Simpson, joined by Senator Cranston, submitted Amendment No. 1909 to S. 2378. This amendment would provide for a more uniform minimum-service requirement for entitlement to certain benefits as a result of active-duty service.

On July 1, 1982, Senator Simpson, joined by Senator Cranston, introduced S. 2709, a bill that would correct an administrative error with respect to entitlement to DIC.

Senator Simpson, joined by Senator Cranston, introduced S. 2747 on July 16, 1982. This measure proposes to make adjustments and improvements in the vocational rehabilitation and education programs administered by the Veterans' Administratrion and in the veterans' employment programs administered by the Department of Labor.

On July 18, 1982, Senator Cranston, joined by Senator Simpson, submitted Amendment No. 1984 to S. 2747 to specify Congressional intent with respect to implementation of the targeted GI Bill delimiting date extension and to provide expressly for tolling the period of time in which a veteran has to use certain vocational rehabilitation or education benefits when the veteran has been prevented from using such benefits by an alcohol or drug dependence or abuse condition.

A hearing was held by Senator Simpson on July 13, 1982, on S. 2378, Amendment No. 1909, and related measures pending before the Committee. Testimony was received from Dorothy Starbuck, Chief Benefits Director of the Veterans' Administration, accompanied by other representatives of the Veterans' Administration, and representatives of the The American Legion, the Disabled American Veterans, the Veterans of Foreign Wars, the Paralyzed Veterans of America, the Blinded Veterans Association, the National Association for Uniformed Services, and the International Chiropractors Association.

On July 28, 1982, Senator Simpson conducted a hearing on S. 2747 and Amendment No. 1984. Testimony was presented by Dorothy Starbuck, Chief Benefits Director of the Veterans' Administration, accompanied by other representatives of that agency; Lawrence Korb, Assistant Secretary of Defense for Manpower Reserve Affairs and Logistics; William Plowden, Assistant Secretary of Labor for Veterans' Employment; Neil Singer, Principal Analyst, National Security and International Affairs Division, Congressional Budget Office; and representatives of the Veterans of Foreign Wars, The American Legion, and the Disabled American Veterans.

After reviewing the testimony received at the July 13 and 28 hearings, the Committee met in open session on August 19, 1982, to consider the provisions of S. 2378, S. 2747, Amendment No. 1909, Amendment No. 1984, and related measures. The Committee voted unanimously to order reported an original measure, S. 2913, derived in part from the provisions of S. 2048, S. 2378, S. 2380, S. 2381, S. 2382, S. 2388, S. 2461, S. 2709, S. 2747, and Amendments Nos. 1909 and 1984.

SUMMARY OF S. 2913 AS REPORTED

S. 2913 as reported, (hereinafter referred to as the "Committee bill") has five titles: Compensation and dependency and indemnity compensation rate increases and program improvements; Amendments to veterans' education and rehabilitation programs; Veterans' employment amendments; miscellaneous improvements; and Effective dates, as follows:

TITLE I: COMPENSATION AND DEPENDENCY AND INDEMNITY COMPENSATION (DIC) RATE INCREASES AND PROGRAM IMPROVEMENTS

This title includes amendments to chapters 11 and 13 of title 38, United States Code, which would provide, effective October 1, 1982, a 7.4 percent increase (the same increase provided to Social Security recipients and VA pension beneficiaries effective June 1, 1982) in:

(1) basic compensation rates for service-connected disabled veterans and, generally, in the rates payable for certain severe disabilities;

(2) the subsistence allowances for spouses, children, and dependent parents paid to service-connected disabled veterans rated 30 percent or more disabled;

(3) the annual clothing allowance paid to veterans whose compensable disability requires the use of a prosthetic or orthopedic appliance (including a wheelchair) that tends to tear or wear out their clothing, and

(4) the Dependency and Indemnity Compensation (DIC) rates paid to:

(a) surviving spouses of veterans whose deaths were service connected;

(b) surviving spouses for dependent children and surviving spouses who are so disabled as to be in need of regular aid and attendance or to be permanently housebound; and

(c) the children of veterans whose deaths were service connected where no surviving spouse is entitled to DIC, the child is age 18 through 22 and attending an approved educational institution, or the child is age 18 or over and became permanently incapable of self-support prior to reaching age 18.

In addition, the Committee bill would realign the amounts of dependents' allowance paid to service-connected disabled veterans who are 30 percent or more disabled. Furthermore, the base rate of compensation payable to service-connected disabled veterans who are totally blinded without light perception would be elevated from (M) to (N). The final provision in title I would clarify Congressional intent that the existence of clear and unmistakable VA administrative error would be a basis for entitlement to DIC benefits when such administrative error is the only bar to entitlement otherwise.

TITLE II: AMENDMENTS TO VETERANS' EDUCATION AND REHABILITATION PROGRAMS

This title includes amendments to chapters 31, 32, 34, 35, and 36 of title 38, United States Code, which would:

1. Repeal the mandatory nature of the "vet rep" program and allow the VA Administrator to provide outreach services to veterans concerning their educational benefits through stationing VA employees in places such as schools.
2. Relax restrictions on vocational rehabilitation and education benefits in the cases of veterans who have been convicted of felonies and who are residing in halfway houses or participating in work-release programs.
3. Change the manner in which lump sum payments to a VEAP account are calculated.
4. Authorize the VA to receive funds from the Department of Defense for certain DoD-funded pilot programs and to deposit and disburse those funds through the existing VEAP account.

5. Repeal the 1989 termination date of the GI Bill and provide that DoD pays for educational benefits after December 31, 1989.

6. Relieve vocational schools from the requirement to compute and report on the number of graduates who have obtained employment in the career field during the preceding 2 years in order to establish that 50 percent have been so employed.

7. Clarify the rate at which entitlement use is charged for pursuit of independent study.

8. Provide that certain restrictions on payments of GI Bill and vocational rehabilitation benefits do not apply to veterans and eligible persons incarcerated by virtue of convictions of misdemeanors.

9. Remove a requirement that the VA report to Congress on the educational loan default rate on a school-by-school basis.

10. Grant the Administrator authority to suspend GI Bill benefits when a school exhibits a significant pattern of violations of reporting or approval requirements. Schools would receive 60 days notice and students would receive 30 days notice before the suspension is affected.

11. Clarify the intent of Congress with respect to the so-called "targeted delimiting date extension" of GI Bill education benefits for veterans who are educationally disadvantaged and for veterans who are unskilled and underemployed, state time limits for regulations to be promulgated, and extend until December 31, 1984, eligibility for this program.

12. Allow veterans who because of an alcoholism or drug dependence or abuse condition were prevented from using their full GI Bill or vocational rehabilitation benefits to use those benefits beyond their basic 10 year eligibility period during a period of up to 4 years providing their condition is controlled, has been treated by a program recognized by the VA Administrator, and they apply within certain time limits.

TITLE III: VETERANS' EMPLOYMENT AMENDMENTS

This title includes a freestanding provision and amendments to chapters 41, 42, and 43 of title 38, United States Code, and Public Law 90-83 which would:

1. State that the Congress is concerned about the high level of unemployment which exists among disabled and Vietnam-era veterans, and that veterans' employment is a national responsibility to be addressed by the Secretary of Labor through programs administered by the Assistant Secretary of Labor for Veterans' Employment (ASVE).

2. Require the ASVE to issue regulations promulgating the policies of these programs.

3. Specify that the State Directors for Veterans' Employment Service are to be assigned full-time Federal clerical support.

4. Provide authority to waive the two-year residency requirement for appointments to the positions of State Director or Assistant State Director of Employment if a candidate for a position has been Assistant State Director in another state for at

least one year, and only after no available, qualified candidate has been found among state residents.

5. Require State and Assistant State Directors for Veteran's Employment to coordinate programs specifically with VA programs which provide vocational rehabilitation and readjustment counseling (Vet Centers).

6. Clarify that funds available for DVOP services are provided for use in the States and not for use by the States.

7. Authorize waivers of the requirement that 25 percent of DVOP staff be outstationed within each state provided that at least 20 percent of all DVOP's nationwide be outstationed from state employment service offices.

8. State that the ASVE will monitor the appointment of DVOP's.

9. Describe the Secretary of Labor's responsibility for determining that the DVOP program has a sufficient level of funding.

10. Call for an annual report to Congress on the Disabled Veteran Outreach Program.

11. Specify that the U.S. Postal Service and the Postal Rate Commission are subject to the requirements of chapter 42 of title 38, including the requirements for mandatory listing and affirmative action by its contractors and for submission of affirmative action plans.

12. Require that federal contractors report at least annually to the Secretary of Labor on their hiring of veterans of the Vietnam-era and special disabled veterans.

13. Transfer to the ASVE the responsibility to assist veterans in reemployment in their former positions after the satisfactory completion of any period of active duty.

14. Repeal the Exemplary Rehabilitation Certificate Program.

TITLE IV: MISCELLANEOUS IMPROVEMENTS

This title includes amendments to chapters 19, 23, 36, 37, 53 and 81 which would:

1. Allow the VA to assign the proceeds of a life insurance policy to an expanded list of beneficiaries in cases where there has been a contested claim, but the parties wish to settle without the expense of legal action.

2. Remove the 4-year time restriction for filing certain life insurance claims and provide that sums payable will not escheat to a state.

3. Establish that the VA will pay the $300 burial benefit in the case of an indigent, wartime veteran or a veteran discharged or released from active duty for a service-connected disability whose body is not claimed when a state or locality would otherwise have to use its resources to pay the costs.

4. Give authority to the VA to guarantee loans to veterans to refinance liens on their mobile homes in order to finance the purchase of a mobile home lot.

5. Change the term "mobile home" to "manufactured home".

6. Reduce from 2 years to 180 days the length of time available to a veteran to seek relief from the recovery of benefit payments, overpayments, and interest thereon, but provide that this limit may be waived in certain circumstances.

7. Clarify that the 2-year minimum service requirements in section 3103A of title 38, United States Code, applies to all Federal programs with certain exceptions.

8. Provide that this bill will supersede any provision of law which would eliminate correspondence training under section 1786(a) of title 38 that is not enacted as an amendment to such title, as part of the reconciliation process under the Congressional Budget Act of 1974.

9. Affirm, with respect to OMB Circular A-76, the importance of an independent VA health-care system with quality health services provided in the most cost-effective manner possible, and prohibit contracting out unless (1) there would be no adverse impact on direct medical care and (2) savings of at least 10 percent would result; leave existing VA contract authority intact.

DISCUSSION

TITLE I: COMPENSATION AND DEPENDENCY AND INDEMNITY COMPENSATION RATE INCREASES AND PROGRAM IMPROVEMENTS

Part A—Rate Increases

Background

Disability compensation

The service-connected disability compensation program provides monthly cash benefits to veterans who have suffered disabilities during, or as a result of, their service in our Nation's Armed Forces. This program ranks as the highest program priority of the Veterans' Affairs Committee.

The amount paid in individual instances is contingent upon the nature of the veterans' disability or combination of disabilities and the extent to which earning capacity is considered to have been impaired. Compensable disabilities are rated according to the VA's Schedule of Rating Disabilities on a graduated scale ranging from 10 to 100 percent. A totally disabled veteran is thus compensated at not less than the 100-percent rate. Higher monthly rates are payable to totally disabled veterans with certain specific, very severe disabilities and combinations of disabilities.

The Veterans' Administration disability compensation program in July, 1982 provided benefits for 2,276,061 veterans who had service-connected disabilities. This number is composed of disabled veterans with the following periods of service: 22,135 World War I veterans; 1,144,889 World War II veterans; 231,952 Korean-conflict veterans; and 577,929 Vietnam-era veterans.

The following table shows average costs and caseloads for veterans and survivors:

TABLE 1.—COMPENSATION—SUMMARY OF REQUIREMENTS

[Total cost in thousands of dollars]

Total costs	Fiscal year 1981			Fiscal year 1982 (estimated)			Fiscal year 1983 (estimated)		
	Average cases	Average cost	Total cost	Average cases	Average cost	Total cost	Average cases	Average cost	Total cost
Compensation (total)	2,632,209	$53,227	$8,495,000	2,638,250	$3,618	$9,546,400	2,643,970	$3,581	$9,468,422
Veterans (total)	2,275,730	3,050	6,941,719	2,283,850	3,417	7,803,100	2,290,400	3,368	7,713,007
Spanish American War	2	15,000	30	2	15,000	30	2	15,000	30
Mexican Border period	5	9,200	46	4	10,250	41	4	10,250	41
World War I	27,344	3,649	99,766	23,400	4,060	95,004	19,600	3,990	78,212
World War II	1,179,507	2,880	3,396,636	1,157,721	3,223	3,731,390	1,137,399	3,175	3,611,484
Korean conflict	234,652	3,429	804,521	233,673	3,826	894,014	232,695	3,762	875,389
Vietnam era	560,987	3,116	1,748,185	572,050	3,499	2,001,388	578,200	3,446	1,992,192
Peacetime service	273,233	3,267	892,535	297,000	3,641	1,081,233	322,500	3,583	1,155,659
Survivors (total)	356,479	4,306	1,534,863	354,400	4,861	1,722,700	353,570	4,904	1,734,015
Civil War	5	3,000	15	4	4,250	17	4	4,250	17
Spanish American War	129	4,566	589	108	5,565	601	105	5,600	588
Mexican Border period	1	7,000	7	1	8,000	8	1	3,400	8
World War I	29,386	4,804	141,160	28,307	5,365	151,873	27,200	5,382	146,389
World War II	171,344	3,801	651,312	168,100	4,331	728,112	164,900	4,380	722,292
Korean conflict	39,208	4,148	162,654	39,180	4,678	183,298	39,160	4,702	184,119
Vietnam era	66,199	4,868	322,235	67,700	5,440	368,300	69,000	5,452	376,187
Peacetime service	50,207	5,117	256,891	51,000	5,696	290,491	53,200	5,722	304,415
Clothing allowance (total)	68,032	271	18,418	39,000	299	20,000	70,000	305	21,000

Source: Department of Veterans' Benefits, Veterans' Administration, July 1982.

History of cost-of-living increases

The Committe periodically reviews the service-connected disability compensation program with a view toward assuring that the benefits authorized provide reasonable and adequate compensation for disabled veterans and their families. Congress has traditionally acted periodically to provide cost-of-living increases in compensation benefits, in order to assure that those benefits kept pace with inflation.

The following table shows statutory increases in the rates of disability compensation since 1957:

TABLE 2.—HISTORY OF SERVICE-CONNECTED DISABILITY COMPENSATION INCREASES, 1957 TO PRESENT

Sec. 314, title 38, subsection—	Public Law 85-168, Oct. 1, 1957, monthly rate	Public Law 87-645, Oct. 1, 1962		Public Law 89-311, Oct. 31, 1965		Public Law 90-493, Jan. 1, 1969		Public Law 91-376, July 1, 1970		Public Law 92-328, Aug. 1, 1972		Public Law 93-295, May 1, 1974	
		Percentage increase	Monthly rate	Percentage increase	Monthly rate	Percentage increase	Monthly rate	Percentage increase	Monthly rate	Percentage increase	Monthly rate	Percentage increase	Monthly rate
(a)	$19	0.3	$20	5.0	$21	9.5	$23	8.7	$25	12.0	$28	15	$32
(b)	36	5.6	38	5.3	40	7.5	43	7.0	46	10.8	51	15	59
(c)	55	5.5	58	3.4	60	8.3	65	7.7	70	10.0	77	15	89
(d)	73	5.5	77	6.6	82	8.5	89	7.9	96	10.4	106	15	122
(e)	100	7.0	107	5.6	113	8.0	122	10.7	135	10.3	149	15	171
(f)	120	6.7	128	6.3	136	8.1	147	10.9	163	9.8	179	18	211
(g)	140	6.4	149	7.4	161	8.1	174	10.9	193	9.8	212	18	250
(h)	160	6.3	170	9.4	186	8.1	201	10.9	223	9.9	245	18	289
(i)	179	6.7	191	9.4	209	8.1	226	10.6	250	10.0	275	18	325
(j)	225	11.1	250	20.0	300	33.3	400	12.5	450	10.0	493	18	584
(k)												10	52
(l)	309	10.0	340	17.6	400	25.2	500	12.0	560	10.0	616	18	727
(m)	359	8.6	390	15.4	450	22.2	550	12.0	616	10.1	678	18	800
(n)	401	9.7	440	19.3	525	18.2	625	12.0	700	10.0	770	18	909
(o)	450	16.7	525	14.3	600	16.7	700	12.0	784	9.0	862	18	1,017
(p)	450	16.7	525	14.3	600	16.7	700	12.0	784	9.9	862	18	1,017
(q)													
Subsec. (r) "aid and attendance" nonhospitalization, Public Law 82-782, effective Oct. 1, 1958:													
(1)	150	33.3	200	25.0	250	20.0	300	12.0	336	10.1	370	18	437
(2)													
Subsec. (s) (housebound cases), Public Law 86-663, effective Sept. 1, 1960	265	9.4	290	20.7	350	28.8	450	12.0	504	9.9	554	18	654
(t)													

TABLE 2.—HISTORY OF SERVICE-CONNECTED DISABILITY COMPENSATION INCREASES, 1957 TO PRESENT—Continued

Sec. 314, title 38, subsection—	Public Law 85-168, Oct. 1, 1957, monthly rate	Public Law 87-645, Oct. 1, 1962		Public Law 89-311, Oct. 31, 1965		Public Law 90-493, Jan. 1, 1969		Public Law 91-376, July 1, 1970		Public Law 92-328, Aug. 1, 1972		Public Law 93-295, May 1, 1974	
		Percentage increase	Monthly rate	Percentage increase	Monthly rate	Percentage increase	Monthly rate	Percentage increase	Monthly rate	Percentage increase	Monthly rate	Percentage increase	Monthly rate
Sec. 362 of title 38													

TABLE 2.—HISTORY OF SERVICE-CONNECTED DISABILITY COMPENSATION INCREASES, 1957 TO PRESENT—Continued

Sec. 315, title 38, subsection—	Public Law 94-71, Aug. 1, 1975		Public Law 94-433, Oct. 1, 1976		Public Law 95-117, Oct. 1, 1977		Public Law 95-479, Oct. 1, 1978		Public Law 95-128, Oct. 1, 1979		Public Law 96-385, Oct. 1, 1980		Public Law 97-66, Oct. 1, 1981	
	Percentage increase	Monthly rate	Percentage increase	Monthly rate	Percentage increase	Monthly rate	Percentage increase	Monthly rate	Percentage increase	Monthly rate	Percentage increase	Monthly rate	Percentage increase	Monthly rate
(a)	9.4	$35	8.6	$38	6.6	$41	7.3	$44	9.9	$48	13.0	$54	8.0	$58
(b)	10.2	65	7.7	70	6.6	75	7.3	80	9.9	88	13.0	99	8.0	107
(c)	10.1	98	8.2	106	6.6	113	7.3	121	9.9	133	13.0	150	8.0	162
(d)	9.8	134	8.2	145	6.6	155	7.3	166	9.9	182	13.0	206	12.6	232
(e)	9.9	188	8.0	203	6.6	216	7.3	232	9.9	255	14.3	291	12.6	328
(f)	11.9	236	8.1	255	6.6	272	7.3	292	9.9	321	14.3	367	12.6	413
(g)	12.0	280	7.9	302	6.6	322	7.3	346	9.9	380	14.3	434	20.0	521
(h)	12.1	324	8.0	350	6.6	373	7.3	400	9.9	440	14.3	503	20.0	604
(i)	12.0	364	8.0	393	6.6	419	7.3	450	9.9	495	14.3	566	20.0	679
(j)	12.2	655	7.9	707	6.6	754	7.3	809	9.9	889	14.3	1,016	11.2	1,130
(k)	0	52	8.0	879	6.6	56	0	56	0	[2] 56	0	62	0	62
(l)	12.0	814	8.0	879	6.6	937	7.3	1,005	9.9	1,104	14.3	1,262	11.2	1,403
(m)	12.0	896	8.0	968	6.6	1,032	7.3	1,107	9.9	1,217	14.3	1,391	11.2	1,547
(n)	12.0	1,018	8.0	1,099	6.6	1,172	7.3	1,258	9.9	1,383	14.3	1,581	11.2	1,758
(o)	12.0	1,139	8.1	1,231	6.6	1,312	7.3	1,408	9.9	1,547	14.3	1,768	11.2	1,966
(p)	12.0	1,139	8.1	1,231	6.6	1,312	7.3	1,408	9.9	1,547	14.3	1,768	11.2	1,966
(q)													0	67

TABLE 2.—HISTORY OF SERVICE-CONNECTED DISABILITY COMPENSATION INCREASES, 1957 TO PRESENT—Continued—Continued

Sec. 315, title 38, subsection—	Public Law 94-71, Aug. 1, 1975		Public Law 94-433, Oct. 1, 1976		Public Law 95-117, Oct. 1, 1977		Public Law 95-479, Oct. 1, 1978		Public Law 95-128, Oct. 1, 1979		Public Law 96-385, Oct. 1, 1980		Public Law 97-66, Oct. 1, 1981	
	Percentage increase	Monthly rate	Percentage increase	Monthly rate	Percentage increase	Monthly rate	Percentage increase	Monthly rate	Percentage increase	Monthly rate	Percentage increase	Monthly rate	Percentage increase	Monthly rate
Subsec. (r) "Aid and Attendance" nonhospitalization, Public Law 85-782, effective Oct. 1, 1958:														
(1)	11.9	489	0	528	6.6	563	7.3	604	9.9	664	14.3	759	11.2	844
(2)							(¹)	900		989	14.3	1,130	11.2	1,257
Subsec. (s) (housebound cases), Public Law 86-663, effective Sept. 1, 1960)	11.9	732	7.7	791	6.6	843	7.3	905	9.9	995	14.3	1,137	11.2	1,264
(t)							(¹)	175		192	14.3	219	11.2	244
Sec. 362 of title 38			8.6	190	6.6	203	7.3	218	9.9	240	14.3	274	11.2	305

[1] From Oct. 1978.

[2] (k) $62 effective Sept. 1, 1980 (9.9 percent increase).

Source: Department of Veterans' Benefits, Veterans' Administration, July 1982.

Dependency and indemnity compensation (DIC)

The dependency and indemnity compensation (DIC) programs, which supplanted the earlier death compensation program, was established in 1956 with the enactment of the Servicemen's and Veterans' Survivors Benefit Act (Public Law 84-881).

DIC is paid to the survivors—surviving spouses, unmarried children under the age of 18, as well as certain helpless children age 18 or over, children between the ages of 18 and 23 who are enrolled in school, and certain needy parents—of servicemen or veterans who died on or after January 1, 1957, from: (1) a disease or injury incurred or aggravated in line of duty while on active duty or active duty training; or (2) an injury incurred or aggravated in line of duty while on inactive duty training; or (3) a disability compensable under laws administered by the VA.

Surviving spouses, children, and parents who are receiving death compensation by reason of a veteran's death occuring before January 1, 1957, may elect to receive DIC benefits in lieu of death compensation. Once they so elect, however, they cannot, thereafter, receive death compensation.

DIC is paid to surviving spouses at rates determined by the pay grade—service rank—of the deceased veteran. A higher rate is payable if the surviving spouse is so disabled as to be housebound or in need of regular aid-and-attendance, and additional amounts are payable for the veteran's surviving children. Children become entitled to DIC where there is no surviving spouse, or where the child age 18 or over has become permanently incapable of self support before reaching the age of 18 or the child is age 18 to 23 and pursuing an approved course of education.

DIC benefits are currently paid to or for 316,443 surviving spouses and children.

In addition, DIC is paid to the needy surviving parents of a veteran whose death was service connected. Under Public Law 95-588, the provisions of chapter 13 of title 38, United States Code, governing the parents' DIC rates, were amended to provide for automatic annual adjustments at the same time and by the same percentage as social security benefits.

Under section 410(b) of title 38, benefits are also paid at DIC rates to the surviving spouse and children of veterans whose deaths are not determined to be service connected where the veteran received compensation at the 100-percent rate over an extended period of time immediately prior to his or her death.

Committee Bill Provisions

The Committee bill provides for a 7.4 percent cost-of-living increase, effective October 1, 1982, in the service-connected disability compensation and dependency and indemnity compensation benefit rates. This percentage increase is the same percentage increase provided to social security beneficiaries and VA pensioners eligible for benefits under the new pension program established by Public Law 95-588. In calculating this increase the Committee—as contemplated in section 405 of the Omnibus Reconciliation Act of 1982 (Public Law 97-253)—rounded to the next lower dollar all amounts of $0.99 or less.

The Committee's rationale for establishing these rate increases at this level is set forth at pages 11 through 14 of the Committee's budget views and estimates report for fiscal year 1983, which was submitted to the Senate Budget Committee on March 8, 1982 (Committee Print No. 12).

Disability compensation increases

The 7.4-percent increase provided for by the Committee bill would apply to the monthly rates of disability compensation under section 314 of title 38, United States Code, except for the monthly rates specified in subsection (k) of section 314; the rates of additional monthly compensation for dependents payable under section 315 to veterans rated 30 percent or more disabled; and the annual clothing allowance under section 362 for disabled veterans who must use prosthetic or other orthopedic appliances, such as wheelchairs, that tend to tear or wear out their clothing. The maximum monthly amounts specified in subsections (k) and (p) of section 314 would also be increased. Those are specified dollar amounts that may not be exceeded in the event that a veteran would otherwise be entitled to a higher amount by reason of entitlement to two or more monthly rates.

The following table shows the July 1982 rates of disability compensation and those proposed by the Committee bill, together with the number of veterans receiving compensation in each category:

TABLE 3.—COMPARISON OF COMPENSATION RATES UNDER PRESENT LAW AND UNDER S. 2913 AS REPORTED

Applicable subsection of sec. 314, United States Code	Percentage of disability	Increase in monthly rate		Number of veterans
		From—	To—	
(a)	(10)	$58	$62	887,670
(b)	(20)	107	114	358,124
(c)	(30)	162	173	317,325
(d)	(40)	232	249	186,902
(e)	(50)	328	352	114,382
(f)	(60)	413	443	122,398
(g)	(70)	521	559	75,166
(h)	(80)	604	648	38,606
(i)	(90)	679	729	14,148
(j)	(100)	1,130	1,213	134,666

HIGHER STATUTORY AWARDS FOR CERTAIN MULTIPLE DISABILITIES

Applicable subsection of sec. 314, United States Code	Percentage of disability	Increase in monthly rate		Number of veterans
		From—	To—	
(k) (1)	Anatomical loss or loss of use of 1 or more creative organ, 1 foot, 1 hand, or both buttocks, or blindness of 1 eye, or complete organic aphonia, or deafness of both ears—for each loss.	62	62	85,462
(2)	Maximum limit for veterans receiving payments under (a) to (j), above.	1,403	1,506	
(3)	Maximum limit for veterans receiving payments under (l) to (n), below.	1,966	2,111	

HIGHER STATUTORY AWARDS FOR CERTAIN MULTIPLE DISABILITIES—Continued

Applicable subsection of sec. 314, United States Code	Percentage of disability	Increase in monthly rate		Number of veterans
		From—	To—	
(l)	Anatomical loss or loss of use of both hands, both feet, 1 foot and 1 hand, blindness in both eyes, permanently bedridden or so helpless as to require regular aid and attendance.	1,403	1,506	8,539
(m)	Anatomical loss or loss of use of 2 extremities so as to prevent natural elbow or knee action with prosthesis in place, or blind in both eyes, either with light perception only or rendering veteran so helpless as to require regular aid and attendance.	1,547	1,661	5,232
(n)	Anatomical loss of 2 extemities so near shoulder or hip as to prevent use of prosthesis or anatomical loss of both eyes.	1,758	1,888	769
(o)	Disability under conditions entitling veteran to 2 or more of the rates provided in (l) through (n), above, no condition being considerd twice in the determination, or deafness rated at 60 percent or more in combination with total blindness.	1,966	2,111	131
(p)(1)	For blindness of both eyes together with bilateal deafness rates at 40 percent or more disabling of total deafness of 1 ear, next higher rate or intermediate rate, respectively is payable—but compensation may not exceed.	1,966	2,111	1,873
(2)	Anatomical loss or loss of use of three extremities, next higher rate or intermediate rate is payable—but compensation may not exceed.	1,966	2,111	
(q)	[This subsection repealed by Public Law 90-493]			
(r)(1)	If veteran entitled to compensation at the rate provided for under (o), above, or at the maximum rate under (p), above, is in need of regular aid and attendance, in addition to such rate.	844	906	8,802
(2)	If veteran described in (r)(1), above, is in need of a higher level of care by a licensed health-care professional or a person under the regular supervision of such a professional, in addition to the rate payable under (o) or (p).	1,257	1,305	
(s)	If veteran has a disability rated as total, plus additional disability independently ratable at 60 percent or over, or is permanently housebound.	1,264	1,357	6,879
(t)	If veteran entitled to compensation under (a) through (i), above, has suffered the service-connected loss or loss of use of an extremity ratable at 40 percent or more and the non-service-connected loss or loss of use of paired extremity, and the latter loss would be rated at 40 percent or more if service connected, in addition to the rate payable under (a) through (i), above.	244	262	58

Source: Section 314 of title 38, United States Code, July 1982.

Dependents' allowances increases

Veterans whose disabilities are rated at 30 percent or more may receive additional compensation for the veteran's spouse, children, and dependent parents. Under the Committee bill, those dependents' allowances would also be increased by 7.4 percent. Such dependents' allowances are prorated according to the percentage of disability. In 1981, the number of dependents for whom veterans received additional compensation exceed 1,190,000.

The Committee bill would also realign dependents' allowances payable under section 315 of title 38. Current law contains certain arbitrary differences in amounts paid for various categories of dependents' allowance amounts. For example, under current law a totally disabled, married veteran receives a $47 payment for the first child, $37 for the second, $39 for the third, and $38 for each additional child. A veteran with no spouse receives $47 for the first child, $39 for the second, $37 for the third, and $38 for each additional child. These inconsistencies in the amounts payable for children would be corrected by the Committee bill realignment allowing $74 per month for a spouse, $50 per month for a first child, and $40 per month for each additional child.

The following table shows the current rates of additional compensation for dependents and those that would be provided for under the Committee bill:

TABLE 4.—ADDITIONAL COMPENSATION FOR DEPENDENTS

	Monthly rate	
	From—	To—
Spouse	$69	$74
Spouse and child	116	124
No spouse, 1 child	47	50
Each additional child	38	40
Each dependent parent	56	60
Each child age 18 to 22 attending school	105	112
Spouse in nursing home or severely disabled	125	134

Source: Section 315 of title 38, United States Code, July 1982.

Dependency and indemnity compensation increases

The Committee bill would also provide for a cost-of-living increase of 7.4 percent in DIC rates for surviving spouses and children, the same rate of increase provided service-connected disabled veterans in the Committee bill. Additional allowances for surviving spouses in need of aid and attendance or housebound, helpless children age 18, or over, and children between the ages of 17 and 23 attending school would also be increased by 7.4 percent.

The following table shows a comparison of those rates under current law with the rates provided for under the Committee bill:

TABLE 5.—COMPARISON OF MONTHLY DIC RATES UNDER PRESENT LAW AND S. 2913 AS REPORTED

Base monthly rates to surviving spouses	From—	To—	Base monthly rates to surviving spouses	From—	To—
Veterans' pay grade:					
E-1	$415	$445	W-4	$595	$639
E-2	428	459	O-1	525	563
E-3	438	470	O-2	542	582
E-4	466	500	O-3	580	622
E-5	479	514	O-4	613	658
E-6	490	526	O-5	676	726
E-7	514	552	O-6	761	817
E-8	542	582	O-7	824	884
E-9	567	603	O-8	903	969
W-1	525	563	O-9	970	1,041
W-2	546	586	O-10	1,061	1,139
W-3	562	603			

Source: Section 411 of title 38, United States Code, July 1982.

TABLE 6.—ADDITIONAL PAYMENTS

	From—	To—
Surviving spouse, addition for each child	$48	$51
Addition if surviving spouse in need of regular aid and attendance	125	134
Surviving child (where no surviving spouse is entitled)	210	225
2 such children [1]	301	323
3 such children	389	417
More than 3 children, addition for each additional child	79	84
Addition if such child is helpless	125	134
Helpless child, where surviving spouse is also entitled	210	225
Child attending school, where surviving spouse is also entitled	107	114

[1] If there is more than 1 surviving child, an equal share of the total amount is paid to each child.

Source: Sections 411, 413, 414 of title 38, United States Code, July 1982.

The 7.4-percent increase would also be applicable to benefits paid at DIC rates under section 410(b) of title 38, United States Code, to the surviving spouses and children of certain totally disabled service-connected disabled veterans whose deaths were not service connected.

Part B—Compensation and Dependency and Indemnity Compensation Improvements

Increased Compensation to Certain Severely Disabled Veterans

The Committee bill would increase the rate of compensation payable to service-connected disabled veterans who are totally blind without light perception.

Through a very complex rating schedule the Veterans' Administration attempts to compensate veterans adequately for their service-connected disabilities. Section 314 of title 38 provides the rate of disability compensation based on the degree to which a veteran is disabled and awards additional monthly payments for certain specified severe disabilities.

Under current law and regulations, veterans who suffer from service-connected total blindness, regardless of whether there is light perception, are compensated under section 314(m) of title 38. The Committee believes that the absence of light perception results in a special problem of orientation that is more disabling and that this should be reflected in an increased rate of compensation.

Thus the committee bill would raise service-connected totally-blinded veterans without light perception to the rate specified under section 314(n) of title 38. Compensation for these veterans would then be on a par with compensation for veterans who have suffered the anatomical loss of both eyes, a condition known as optical enucleation.

Entitlement to Certain Dependency and Indemnity Compensation

Chapter 13 of title 38 provides eligibility for DIC to surviving spouses, children, and needy parents of veterans whose deaths are determined by the VA to be service connected. By virtue of a provision enacted in 1978 (section 204 of Public Law 95-479), eligibility for survivors' benefits at DIC rates was extended to the survivors of certain veterans whose disabilities had been continuously rated totally disabling for a period of 10 years (or for a period of 5 years from the date of the veteran's discharge or release from service). As enacted by Public Law 95-479, section 410(b)(1) of title 38 provides that DIC equivalent benefits may be paid to certain survivors of veterans who have been "in receipt of (or but for the receipt of retired or retirement pay was entitled to receive) compensation at the time of death" for such disabilities.

On March 24, 1981, the General Counsel of the Veterans' Administration issued an opinion (Op. G.C. 2-81 (holding that eligibility for survivors' benefits under section 410(b)(1) exists only when the veteran was actually receiving compensation for total disability for the requisite period of time or would have been receiving such compensation but for the receipt of retirement or retired pay—without regard to whether the non-receipt of compensation for any part of that period is attributable to VA error. The General Counsel's opinion follows:

GENERAL COUNSEL'S OPINION, VETERANS ADMINISTRATION-Op. G.C. 2-81

March 24, 1981 (Opinion date)
May 21, 1981 (Publication date)

SUBJECT: Interpretation of 38 U.S.C. § 410(b)(1)(1976)

QUESTION PRESENTED: Was 38 U.S.C. § 410(b)(1)(1976) intended to create entitlement to survivors' benefits when a veteran was in receipt of compensation for total disability at death, but the total disability rating was not actually in effect for ten years because of Veterans Administration error?

COMMENTS: To illustrate the problem, the following fact pattern is offered:

> A veteran, at death, had been in receipt of compensation for total disability. Assume that death occurred in 1980, and the total disability rating had been assigned with an effective date in 1978. After the veteran's death, the Veterans Administration determines that the correct "effective date" for the total rating should have been in 1969, under the effective date rules specified in 38 U.S.C. § 3010 (1976).

Should the Veterans Administration consider such a veteran to have been "in receipt of . . . compensation at the time of death for a service-connected disability that . . . was continuously rated totally disabling for a period of ten or more years immediately preceding death," under 38 U.S.C. § 410(b)(1)?

Such a veteran would have been neither actually assigned a total rating continuously for the requisite number of years, nor in receipt of compensation at that rate long enough for his survivors to qualify. We have concluded that it would frustrate the congressional intendment were chapter 13 survivors' benefits granted in such cases.

No agency precedents addressing this question have been located. Therefore, in order to come to a reasonable interpretation of section 410 (b)(1), a brief examination of relevant legislative history is necessary. Prior to 1978, payment of DIC benefits was restricted to the survivors of those servicemembers who died on active duty or veterans who died post-service as a result of "service-connected" disabilities. However, it was brought to Congress' attention by the Blinded Veterans Association and other veterans' groups that certain service-connected disabilities, such as blindness, warrant a disability rating of 100% but are rarely found as contributing to the cause of death. Accordingly, under the prior law, DIC benefits were generally not available to survivors of these totally disabled veterans. Increased Rates of Compensation: Hearings Before the Subcommittee on Compensation, Pension and Insurance of the House Committee on Veterans' Affairs, 95th Cong., 2d Sess. 23 (1978) (statement of William W. Thompson).

The Blinded Veterans Association's concern produced a sympathetic reaction in Congress. As a result, section 204 of the Veterans' Disability Compensation and Survivors' Benefits Act of 1978 (Pub. L. No. 95-479; 92 Stat. 1564), which added the current 38 U.S.C. §410(b), came into being.

Section 204 and several other items in Pub. L. No. 95-479 were compromise provisions necessitated when the House and Senate passed markedly different versions of H.R. 11886, 95th Congress. *See* Joint Explanatory Statement on H.R. 11886, 124 Cong. Rec. 16896 *et seq.* (1978), *reprinted in* [1978] U.S. Code Cong. & Ad. News 3530 *et seq.* As originally passed by the House on June 28, 1978, H.R. 11886 did not contain anything similar to section 204, but the House did pass H.R. 11890 on July 25, 1978, which embodied a very similar proposal. H.R. 11890 would have provided dependency and indemnity compensation benefits to the survivors of veterans who were rated permanently and totally disabled from service-connected causes for a period of at least ten years (or continuously since service) and died of natural causes. *See, e.g.*, H.R. Rep. No. 1230, 95th Cong., 2d Sess. 2 (1978). While H.R. 11890 did not come to a vote in the Senate, the August 7, 1978 Senate-passed version of H.R. 11886 (as amended to substitute the language of S. 2828 as reported by the Senate Committee on Veterans' Affairs) contained a somewhat similar provision. 124 Cong. Rec. 4831 *et seq.* (1978). The legislative intent becomes clear from a reading of the House Committee on Veterans' Affairs' report on H.R. 11890, and the Senate Committee on Veterans' Affairs' report on S. 2828.

The House Committee considered H.R. 11890 to have sufficient safeguards to protect against reducing the DIC program to just another form of survivors' pension. One of the safeguards was the provision requiring the veteran to have suffered total service-connected disability for ten years or since discharge. It also required the veteran's widow to have experienced with him a good part of that loss by specifying that the marriage must have existed for at least five years. H.R. Rep. No. 1230, 95th Cong., 2d Sess. 2 (1978).

The Senate Committee on Veterans' Affairs, in its report, acknowledged many of the same concerns. S. Rep. No. 1054, 95th Cong., 2d Sess. 30 (1978). In addition, the Senate Committee expressed concern that a significant percentage (12% to 25%) of DIC claims involving survivors of veterans rated totally disabled at death were denied because the deaths were not found to be service connected. It was the Committee's view that the appropriate federal obligation to the survivors should be replacement of the support lost when the veteran dies. S. Rep. No. 95-1054, 95th Cong., 2d Sess. 28 (1978), *reprinted in* [1978] U.S. Code Cong. & Ad. News 3465, 3486. Specifically, the Committee expressed its concern over situations like the following:

> Assume that a veteran who is totally blind from service-connected causes dies at the age of 55 from a heart attack, having been so disabled from the age of 22—a period of 33 years. During that period, his wife and he depended upon his disability compensation for income support, but, because his death is not service connected, she would not receive DIC.

The two Committees' reports document that one of the primary considerations in the enactment of the current 38 U.S.C. § 410(b) was Congress' recognition of the financial dependence of the survivors of deceased totally disabled veterans on the disability compensation available during the veterans' lifetimes. However, this situation is less and less plausible as the intervening time between a veteran's rating of total disability and his ensuing death is shorter than the ten-year criterion, and Congress considered a time limit to be necessary. Hearing on Pub. L. No. 95-479 before the Subcommittee on Compensation, Pension, Insurance, and Memorial Affairs of the House Committee on Veterans' Affairs, 96th Cong., 1st Sess. 19 (1979) (statement of Honorable G.V. (Sonny) Montgomery). The shorter the period of time between a rating of total disability and the veteran's death, the less dependent the survivors should be expected to be on the disability income.

Section 410(b)(1) reads:

> (b)(1) Notwithstanding the provisions of subsection (a) of this section, when any veteran dies, not as the result of the veteran's own willful misconduct, *if the veteran was in receipt of* (or but for the receipt of retired or retirement pay was entitled to receive) *compensation at the time of death for a service-connected disability that either (A) was continuously rated totally disabling for a period of ten or more years immediately preceding death,* or (B) if so rated for a lesser period, was so rated continuously for a period of not less than five years from the date of such veteran's discharge or other release from active duty, the Administrator shall pay benefits under this chapter to the veteran's surviving spouse, if such surviving spouse was married to such veteran for not less than two years immediately preceding such veteran's death, and to such veteran's children, in the same manner as if the veteran's death were service connected. (Emphasis added.)

Any ambiguity which a reader sees when separate phrases within the section are examined out of context is cured when the words are read together as a whole. An instrument must always be construed as a whole, and the particular meaning to be attached to any word or phrase is to be ascribed from the framers' purpose. *Philbrook v. Glodgett,* 421 U.S. 707 (1975); *see generally Sutherland, Statutory Construction* §§ 46.05, 47.02, 4th Ed. (1975), and 1980 Supp. Here the plain meaning of the words is apparent: the ten-year criterion is set, without an exception. Provision could have been made to cover cases in which *entitlement* to receive compensation for total disability were the touchstone (*see, e.g.,* 38 U.S.C. § 541(a)), but Congress instead chose the "in receipt of" language. This is presumed to have been a reasoned choice. We note in this regard that, as passed by the House, H.R. 11890 provided that entitlement would arise when a veteran "was in receipt of *or entitled to receive*" compensation at the total disability rate for the requisite duration. The eschewal of the "or entitled" language in the compromise agreement must be presumed a considered choice. Where there is support, as here, in the recorded expressions of legislative intent, we find no compelling reason to depart from the plain meaning of the statute. We conclude that section 410(b)(1) does not provide a basis for finding entitlement in the case you have posited.

We have determined as a matter of law that the statutory provision does not afford relief, but further submit that the policy considerations do not demand otherwise when the equities are examined. Your opinion request contemplates a situation in which the Board determines, belatedly (posthumously), that a veteran's disability rating was for a time erroneously low. Prior rating decisions that have become final because of failure to timely appeal can be retroactively amended only on the basis of "clear and unmistakeable error," i.e., not merely upon valid differences in the exercise of rating judgment. 38 C.F.R. § 3.105(a). There are, of course, available remedies when a veteran believes an assigned disability rating is arbitrarily low. The regional office can be petitioned for a reconsideration, or an appeal to the Board may be taken. A request for reconsideration of an adverse Board decision may be filed. If there has been "clear and unmistakeable" error in assigning the disability rating, it is very unlikely that it would go unremedied should a veteran exhaust all avenues of redress. (Or, it is at least unlikely that any true error the Board would discover *post-mortem* would not have been recognized by the Board *en bae.*)

Finally, we distinguish those agency precedents in which "constructive" receipt of disability compensation has been found in order to create eligibility for death benefits. In 69 Op. Sol. 228 (July 28, 1943), at issue was whether a veteran should be considered to have been at death "in receipt of pension [compensation] for service-connected disability" for purposes of burial benefits under Paragraph II of Veterans' Regulation Numbered 9(a), as amended by Pub. L. No. 76-866 (54 Stat. 1193, October 17, 1940). There, between the date of an original decision in May 1942 denying service connection and a reversal in July of that year by the Central Disability Board, the veteran died. Because accrued benefits were payable, the Solicitor determined that constructive receipt at death could be acknowledged. There, it is clear that entitlement to receive benefits existed, and that actual receipt at death was debarred only by the veteran's untimely death (not because of any remission in the pursuit of procedural remedies). Subsequent opinions issued by this office, e.g. in an unpublished memorandum forwarded to the Chief Benefits Director November 12, 1964, are similarly distinguishable because of the fact situations considered.

Because there is an adequate administrative remedy "at law" for curing erroneous disability ratings, we also volunteer the opinion that such cases as posed in your memorandum are not appropriate subjects for administrative relief. A painstaking review of all equitable relief decisions under 38 U.S.C. § 210(c)(2) has divulged none in which relief has been grounded in an erroneous VA rating decision. Such relief should be reserved for those situations in which no remedy exists at law. Were all rating decisions subject to reveiw under section 210(c)(2), a tremendous (and we would argue unintended) workload could arise. More important, as in the instant case the only appropriate remedy would be the creation of a running compensation (here, chapter 13) award in contravention of a statute as interpreted by VA. We have serious reservations as to the Administrator's authority to create entitlement to a survivors' compensation award under section 410(b)(1) when Congress has provided a means by which the underlying eligibility defect may be appealed and cured.

HELD: As a matter of law, 38 U.S.C. § 410(b)(1)(1976)* does not provide a basis for finding entitlement to survivors' benefits where a veteran, at death, had been in receipt of compensation for total disability but not for the requisite duration solely because of VA error in the rating assigned.

NOTE: This opinion was released in the form of a memorandum to the Chairman, Board of Veterans Appeals on March 24, 1981.

Robert E. Coy
ROBERT E. COY
Acting General Counsel

The Committee is concerned about this interpretation and about a recent decision of the Board of Veterans' Appeals in which benefits were denied to a survivor of a veteran who, at the time of death, had been in receipt of benefits for a total disability for 9 years and 361 days, despite the fact that there was a clear and unmistakable error in the veteran's rating decision that would have established an earlier effective date for a period of total disability in excess of 10 years. The Committee believes that the section 410(b) benefit should be granted in such cases.

Thus, the Committee bill would amend section 410(b)(1) to provide that the existence of a clear and unmistakable error should not defeat entitlement to the survivors' benefits. Under the amendment, a veteran would not need actually to have been "in receipt" of total disability benefits for the requisite period of time in order to provide eligibility to the survivors if a clear and unmistakable error had been made that resulted in a shorter period of receipt than should have been provided.

The provisions of the Committee bill would provide for retroactive application of the amendment to section 410(b)(1) by requiring the VA to make a lump-sum payment to those survivors who would have been eligible under the new criteria if the amendment had been in effect on October 1, 1978—the effective date of section 410(b)(1). The amount of that payment would be equal to the total amount of the survivors' benefit that would have been paid to the survivor prior to October 1, 1982—the effective date of the amendment—if the amendment had taken effect on October 1, 1978. The Committee considers this a fair approach enabling the survivors affected to be restored to approximately the same position that they would have been in if section 410(b)(1) had been enacted with provision for the correction of clear errors.

Part C—Supersession of Certain Provisions

Background

In order to satisfy the reconciliation requirements imposed under section 2(b)(7) of S. Con. Res. 92, the First Concurrent Resolution on the Budget for Fiscal Year 1983, the Committee reported a resolution to the Budget Committee for inclusion as Title VII of S. 2774, the Omnibus Reconciliation Act of 1982 (S. Rept. No. 97-504, pages 242 to 284). One provision of that resolution, reported as section 705, provided for a $1 reduction in the current law rates payable for various categories of disability compensation and DIC recipients, based on the expectation that at some time prior to the January 1, 1983, effective date of such reductions, legislation would be enacted providing for a 7.4 percent cost-of-living increase with certain minor adjustments, that such legislation would supersede the companion provisions of the Reconciliation Act, and that the cost impact of both such legislative alternatives would be substantially identical, i.e., a savings, in both budget authority and outlays, of $29.5 million in fiscal year 1983, $29.6 million in fiscal year 1984, and $29.8 million in fiscal year 1985. Subsequently, House and Senate conferees on the Reconciliation Act (H.R. 6955) approved, for inclusion as section 405 of that Act, a provision similar to the

Senate provision, expressly in contemplation of the enactment of legislation providing for a 7.45 percent cost-of-living increase—with all amounts of $0.99 or less resulting from the addition of such increase to be rounded to the next lower dollar and with certain categories of dependents' allowances realigned—and expressly with the intent that section 405 of the reconciliation measure be superseded thereby.

The Committee bill would effectuate this intent, by providing that the adjusted cost-of-living increases provided under Part A of title I of the Committee bill would supersede the adjustments to the current law rates for disability compensation and DIC which were made in the Omnibus Reconciliation Act of 1982, Public Law 97-253.

The Committee's purpose is to complete the process by which it has chosen to satisfy its reconciliation requirements. The reasons for having undertaken this process were set forth at page 247 of Senate Report 97-504 accompanying S. 2774, as follows:

> The Committee notes, however, that a mere promise to make the above described changes in the 1983 compensation bill, regardless of the practical likelihood of the enactment of the bill, may not be legally sufficient to satisfy this Committee's reconciliation requirements, since the realization of the projected savings would be contingent upon actual enactment of the compensation bill. Therefore, in order to ensure full compliance with the requirements of reconciliation, the Committee proposes to change existing law in such a way as to reflect fiscal year 1983 savings in an amount (prorated over the entirety of fiscal year 1982 to account for the potential January 1, 1983, effective date of this section) equivalent to the projected savings resulting from the measures described above, so that in the event a compensation act is not enacted for fiscal year 1983, the savings associated with this section will nevertheless be realized. However, the Committee stresses that it fully intends that a compensation act shall be enacted for fiscal year 1983 providing for a 7.4 percent cost-of-living increase adjusted as described above, so that savings would result not from actual reductions in the rates of compensation provided under current law, but from various minor adjustments to the amount of the projected increase in those rates. The Committee intends that the minor reductions provided for in this section shall be superseded by such compensation act containing the above modifications, and expects enactment of that bill, with its October 1, 1982, effective date, to occur well before January 1, 1983, effective date of this section. CBO estimates that cost savings under both alternatives will be substantially identical.

TITLE II: AMENDMENTS OF VETERANS' EDUCATION AND REHABILITATION PROGRAMS

In title II of the Committee bill, changes are proposed which would improve several education and vocational rehabilitation programs.

Veterans' Outreach Services Program

The Veterans' Outreach Services Program, now codified in subchapter IV of chapter 3 of title 38, United States Code, was established by the Congress in Public Law 93-508 in 1974. Current law requires in section 243 that the Administrator assign to each educational institution where at least 500 persons are enrolled under chapters 31, 34, 35, and 36 of title 38 such number of full-time veterans' representatives as will provide at least one such veterans' representative ("vet rep") per each 500 students enrolled at each such institution. When enacted, the purpose of this program was to assist the large number of veterans pursuing educational programs become aware of their benefits and to process their forms expeditiously.

Committee bill provisions

In 1974, there were more than 2 million individuals training under the GI Bill. Since that time, the number of GI Bill trainees had declined significantly; in fiscal year 1983, only slightly more than 800,000 are expected to train with VA assistance. Therefore, "vet reps" are no longer assigned to educational institutions. Thus the Committee bill would remove the mandatory requirement for veterans' representatives in section 243 of title 38, United States Code, in light of declining numbers of veterans enrolled in chapters 31, 34, 35, and 36 educational programs. Instead, the provision in this bill would allow the VA Administrator to assign VA employees to educational institutions or other appropriate locations as necessary to provide assistance to veterans and others in connection with the provision of benefits and to provide outreach services. These assignments could be on a part-time or full-time basis, as the Administrator deems appropriate.

EDUCATION ASSISTANCE FOR INCARCERATED VETERANS

In 1980, provisions of Public Law 96-466 were enacted for the purpose of prohibiting the payment of VA educational benefits to incarcerated veterans whose needs for educational assistance were being met by other means and where the receipt of direct payments not needed to meet the costs of training was causing disciplinary problems in correctional institutions. That law imposed several restrictions on the payment of subsistence benefits to veterans and eligible dependents who are incarcerated in Federal, State or local prisons.

Likewise, the monthly benefit paid to a veteran or dependent pursuing program of education under chapter 34 or 35 is limited to the amount that the Administrator determines is necessary to cover the established charges for tuition and fees charged to nonveterans and the cost of necessary books and supplies. Current law further provides that these restrictions only apply in the case of an individual so incarcerated who is residing in a halfway house, or participating in a work-release program, if the Administrator determines that 100 percent of the individual's living expenses are being paid by a Federal, State or local government. However, if the costs are less than completely defrayed by a Federal, State of local government, the VA may pay the full, normal education benefit or subsistence benefits due a non-incarcerated veteran or dependent.

In addition, chapter 36 provides that, regardless of whether an incarcerated veteran or eligible person has been convicted of a felony or a misdeameanor, benefits may not be paid for any course for which there are no tuition of fees or to the extent that tuition and fees are paid under another Federal program. In the case of a veteran incarcerated for the conviction of a felony who is pursuing a program of vocational rehabilitation under chapter 31, the veteran can be paid for educational expenses, but does not receive any subsistence allowance.

The Committee is concerned by the administrative difficulty and costly procedures that the VA has advised have resulted from these provisions. Thus the Committee bill would ease the restrictions placed on the payment of educational assistance or subsistence benefits to incarcerated veterans or eligible dependents by Public Law 96-466 and facilitate administration of the benefits. First, the Committee bill would eliminate the restrictions for veterans or eligible dependents residing in halfway houses or participating in work-release programs. This would relieve the VA of the need to make costly administrative determinations in individual cases and would provide the individual with support during the crucial readjustment process. It would not significantly increase costs for the VA in terms of benefit payments because in most cases, a Federal, State or local government is not defraying 100 percent of an incarcerated individual's living expenses, so the VA is already making the subsistence payments.

In addition, the Committee bill would repeal the restrictions applicable to veterans and eligible dependents incarcerated for either misdemeanors or felonies under which VA educational assistance is not payable to the extent tuition and fees are paid by an agency other than the VA and where no tuition and fees are involved. The administrative burden for the VA of applying those provisions has been prohibitively expensive and impractical. In addition, misdemeanors usually involve sentences too brief for the VA to be able to track them. There is no official source of notice to the VA in many cases, and if there is notice, benefit payments often have to be adjusted for incarceration of only a few days' duration—a process that is extremely costly.

Calculation of Lump-Sum Payments

Background

In 1976, Public Law 94-502 created a new, contributory program of educational assistance designed to meet the needs of the All-Volunteer Armed Forces. This program, established under chapter 32 of title 38, entitled Post-Vietnam Era Veterans' Educational Assistance Program (VEAP), is a voluntary program in which, generally, persons entering on active duty after December 31, 1976, may make contributions in the form of monthly payroll deductions up to a total maximum of $2,700 in contributions to their educational funds. Their contributions are then matched on a $2 for $1 basis by the Department of Defense when the veteran enrolls in an approved program of education. The amount of the monthly benefit payment is determined by adding all the contributions made to the fund by the veteran, multiplying by 3, adding any supplemental or kicker payments made by the Department of Defense, and dividing by the number of months in which the veteran made contributions.

In 1980, Public Law 96-466, provided for lump-sum contributions to be made to the fund. Such contributions to the fund can be made in lieu of or in addition to a monthly deduction. For purposes of payment of VEAP benefits after separation from service, the contributions are considered to have been made by monthly deductions from a participant's military pay in the amount of $75 per month, or in such lessor amounts as have been specified. In addition, the originally-enacted minimum and maximum contributions were modified from $50 and $75, respectively, to $25 and $100, respectively.

As a result of these changes, a problem is encountered in the terms of the amount of monthly VEAP benefits that are paid by the VA. In the case of an individual who makes 27 monthly contributions of $100 each, benefits are payable at the rate of $300 a month (or $2,700 times 3 divided by 27). On the other hand, an individual who makes one lump-sum payment of $2,700 is paid benefits at the rate of $225 monthly (or $2,700 times 3 divided by 36—36 being $2,700 divided by $75).

In order to correct this inequitable difference in the amount of monthly benefits, the Committee bill would provide that lump-sum contributions would be considered to have been made in amounts of $100 monthly rather than $75, thus conforming this calculation to the modifications made in Public Law 96-466.

Use of Post-Vietnam Era Veterans' Education Account

Public Law 96-342, The Department of Defense Authorization Act of 1981, established a series of educational incentive pilot programs, including the so-called "901" program, for certain service personnel who enlisted or reenlisted in the military service between October 1, 1980, and October 1, 1981. The purpose of these programs was to test the effects on enlistment and reenlistment of certain benefits greater than those available under VEAP. The funds for the benefits were contributed by DOD, to be disbursed by the VA.

The Committee bill would authorize the VA to deposit funds for the "901" program into the VEAP account for the purpose of disbursing payments to eligible individuals beginning in December 1982. The funds would be kept separate, but the automated system would be shared so that the VA would avoid the costly manual operation of a payment system for the "901" program.

Repeal of 1989 Termination Date

Under the current Vietnam-era GI Bill, no chapter 34 educational assistance benefits may be paid after December 31, 1989. This termination date, which was added to chapter 34 in 1976 by Public Law 94-502, was designed to permit those who entered the service prior to December 31, 1976—the general termination date for entry into the service for eligibility to current GI Bill benefits—to complete their initial enlistments and then have a 10-year period in which to use their GI Bill benefits.

The Committee is concerned by reports form persons now on active duty with eligibility for the GI Bill suggesting that they will leave the service in order to utilize their GI Bill benefits prior to the 1989 termination date. According to testimony presented by the Department of Defense, there are presently over 800,000 servicemembers on active duty who entered the service prior to 1977 and who thus have eligibility for the current chapter 34 GI Bill. Although many of these will reach retirement or separate prior to the 1989 termination date and will have an opportunity to use their GI Bill benefits, the Department of Defense estimates that 37,000 are expected to still be in the service in 1990. If these individuals were to leave the service in order to use their benefits, the cost to recruit and train replacements for members who leave prematurely is quite high. In addition, the replacement of senior personnel with more junior personnel reduces the effectiveness and readiness of the Armed Forces.

According to testimony presented by the Department of Defense, all the military departments believe that if the 1989 termination date is not extended, some servicemembers will elect to separate earlier than desired in order to use their earned benefits. The Department advises that while it is unable to document this assertion precisely, many servicemembers have expressed their concern about the delimiting date. Survey evidence indicates that 41 percent of third term personnel leaving the Navy report "losing GI Bill benefits" as one of the most important factors in their decision to leave the service.

The Committee concurs in the concerns expressed by the Department of Defense and others and is sypathetic to the argument that a servicemember should not be penalized by losing earned benefits because of a longer term of service to the Nation. Thus, the Committee bill would repeal section 1662(e) of title 38, the provision which establishes the December 31, 1989, termination date. It would thereby allow all members of the service, as well as those who left service after December 31, 1979, who are entitled to GI Bill benefits generally a full ten-year period from the date of their separation from service to complete their educations under the current chapter 34 GI Bill. The Committee has taken the position of recommending this full 10-year period approach, rather than other proposals for modified delimiting periods, in recognition of the Department of Defense's and VA's position in support of a delimiting period which parallels current law.

In recognition of the fact that the major underlying purpose for repealing the termination date is based more on a retention incentive for the Armed Services, rather than on a readjustment benefit for veterans, the Committee bill would provide that the department of Defense would bear responsibility for the cost of all educational and training benefits paid after December 31, 1989. Thus, the Committee bill would require the Department of Defense to reimburse the VA for all such costs after that date.

Repeal of the 50-Percent Rule

Under existing law, vocational schools are generally required to report every 2 years on the number of graduates who have obtained employment in the career field for which training was received. This requirement for a report was enacted in Public Law 93-508 in 1974 to assure that training provided under the GI Bill was training that would indeed lead to employment. Enactment of this provision resulted from Congressional concern that vocational courses may not always be of adequate quality and intensity to prepare the trainee for employment in the chosen vocation and that some vocational courses tend to serve avocational, recreational, and other personal enrichment objectives rather than basic employment goals. Pursuant to the current law requirements, schools are required to demonstrate that at least 50 percent of graduates from courses obtained employment for at least 10 hours a week in the field for which they were trained.

At the time this provision was enacted, there were over 600,000 veterans enrolled in vocational training. This compares with approximatley 65,000 veterans enrolled in such training at the present time. Enrollment of veterans in vocational training is projected to continue to decrease. The Committee is aware that the preparation and filing of these reports are very costly, necessitating approximately 324 man-years of effort on the part of schools each year to meet these requirements.

The Committee believes that vocational schools have begun to exercise a greater role in employment planning for students enrolled in vocational courses and in the utilization of the training to match employment needs. According to the latest VA statistics, of the approximately 22,000 courses on which reports were required to be filed last Spring, only about 3 percent of the courses were disapproved for failure to meet the 5-percent employment requirement.

In light of the declining numbers of individuals receiving vocational training under the GI Bill and the increased awareness of vocational schools in terms of their roles in employment planning and meeting the employment needs of their students, the Committee believes there are sufficient safeguards in the administrative provisions of title 38 to protect against abuses. Thus the Committee bill would amend sections 1673(a) and 1780(a) to repeal the requirement for schools to compute and report on the employment of graduates. The Committee notes, however, that it intends to continue to monitor the situation closely, and that it will not hesitate to take remedial legislative action should significant abuses reoccur.

Clarification of the 85-15 Rule

In 1980, in connection with Public Law 96-466, the Congress amended section 1691(a) of title 38 to permit educationally disadvantaged individuals who were on active duty in the Armed Forces to pursue a high school diploma or general equivalency certificate training without charge to their entitlements to educational benefits under chapters 32 and 34, in the same fashion that veterans could use their entitlements for such training. The 1980 amendment further required in subsection (c) that schools offering such courses to individuals on active duty would be subject to the so-called "85-15" rule, which requires that no more than 85 percent of the individuals enrolled in a course may be in receipt of VA benefits, notwithstanding the fact that such high school level courses are exempt from compliance with the rule by virtue of the provisions of section 1673(d).

The Committee bill would amend section 1673(d) to conform to the amendments made in 1980, and reflect the fact that it is intended that the 85-15 rule apply to such courses. The Committee understands that this amendment is consistent with the manner in which the VA is presently approving such courses, and that the amendment would have no substantive effect. It is further noted that the current law's exemption of courses offered under Department of Defense contract and given on or adjacent to military bases would remain in effect.

Charge to Entitlement for Independent Study

The Committee bill would make a nonsubstantive amendment to section 1782(e) of title 38 to correct an inadvertent error made in connection with the enactment of Public Law 96-466. In that law, enacted in 1980, the Congress attempted to define more clearly the rate at which benefits should be paid for the pursuit of programs of independent study and the rate at which entitlement should be charged for such pursuit. Section 309 of Public Law 96-466 amended title 38 to provide that when the entire program of education is pursued by means of independent study, a veteran's entitlement would be charged at one-half of the full-time rate, rather than at the actual rate of pursuit, but at not more than the less than half-time rate. Entitlement charged at the not less than half-time rate is charged at the rate at which benefits are paid to a trainee.

The Committee bill would correct this error which resulted in providing that a student be charged for entitlement at a rate greater than the use of benefits. The Committee understands that, since the VA has not applied the erroneous measurement criteria, the amendment would have no substantive effect.

Administrator's Reports on Educational Loans

Under existing law, the Administrator is required to report annually to the Congress on the VA's review of defaulted educational loans. Section 1798(e) of title 38 presently spells out in detail what such annual reports are to contain, including a school-by-school breakdown of default rates. The original purpose of this report was to provide information to the Congress on the VA's experience with its educational loan program.

The Committee notes that the number of VA educational loans being made has declined significantly, and only a small number of loans are now being made. Indeed, Public Law 97-35, the Omnibus Budget Reconciliation Act of 1981, repealed the authority to make such loans except to students enrolled in full-time programs of training after their delimiting periods had expired and to students enrolled in flight training programs.

The Committee continues to be quite concerned regarding the high default rate currently associated with the VA's educational loan program and the VA's efforts to collect money it is owed generally. However, it does not appear that the requirement for a report in the detail now specified in section 1798(e) contributes significantly to the VA's ability to collect its debts. Thus, since there is a time-consuming, costly administrative task associated with the compilation of the report in such detail (especially when compared to the small number of loans being made), the Committee proposes that it be eliminated.

Thus, the Committee bill would amend existing law to continue to require an annual report, but to delete the specified items to be contained in it, including the school-by-school breakdown of default rates. The Committee understands, however, that necessary information would—to the extent that it might not be contained in the annual report—upon request be able to be made available to the Congress. The Committee stresses that this action should in no way be construed as a signal that it does not place a very high priority on VA debt-collection activities and on vigorous efforts to reduce rates of defaulted educational loans.

Authority to Suspend GI Bill Benefits in Certain Cases

Under existing law, the Administrator has the authority to suspend or discontinue educational assistance allowances to eligible veterans and eligible persons when the program of education or course in which they are enrolled fail to meet one or more of the approval requirements set forth in chapters 34, 35, and 36 of title 38 or if the institution offering the program or course has violated or fails to meet one or more of the requirements of those chapters—but only if the Administrator has evidence of the fact that the particular eligible veteran or eligible person concerned is not entitled to such allowances. This means that when a course fails to meet, for example, record-keeping or reporting requirements, payments to eligible veterans and persons continue until remedial action, such as withdrawal of approval, is effected or until evidence of nonentitlement is acquired in individual cases. The process of withdrawal of approval or of acquiring individual evidence is often a long and time-consuming one and thus, in some cases payments may be unduly prolonged. As a result, extensive overpayments may be made.

For example, during a compliance-review process, assume that the VA reviews a 10-percent sample of the files of eligible veterans and persons enrolled at an institution where 1,000 such trainees are enrolled—100 files; and in 80 percent of those 100 files—or 80 cases—substantial violations of a title 38 record-keeping requirement are found. Under current law, despite the fact that there appears to be a substantial pattern of noncompliance, the VA may discontinue educational assistance only to those veterans and persons in the 80 erroneous cases actually identified. The payment of benefits to those remaining 900 veterans and eligible persons may not be interfered with until their cases are individually reviewed or the approval for the institution is withdrawn. In the meantime, potential overpayments may be being made.

The Committee is very concerned by the continuing problem of GI Bill overpayments and is sympathetic to the concerns raised by the VA in connection with this problem. However, the Committee is equally concerned about providing the Administrator with the authority to discontinue or suspend GI Bill benefits in cases where eligible veterans and persons are entitled to benefits. The Committee has carefully considered the proposal made by the Administration in section 209 of its proposed bill, S. 2380, and is proposing, with modifications, a provision that is intended both to curb overpayments and to provide appropriate protections for eligible veterans and persons and the educational institutions concerned.

Under section 207 of the Committee bill, the Administrator would have authority to suspend GI Bill benefits and to disapprove new enrollments in any course when there was evidence of a substantial pattern of title 38 trainees in receipt of assistance who are not entitled to such assistance because course approval requirements have not been met or the institution offering the course has violated a title 38 record-keeping or reporting requirement. In the example set forth above, the Committee views the existence of an 80-percent ineligibility rate as constituting evidence of the requisite substantial pattern on which the Administrator could properly base a decision to suspend benefits

A suspension of benefits, however, would not be permissible until after the VA had provided a written notice of the intent to suspend benefits to the State approving agency and to the institution. The institution, following such notification, would have a 60-day period (or such longer reasonable period as the Administrator determines appropriate) in which to take such action. However, prior to suspending benefits, the VA would be required to give a 30-day advance notice to the affected students together with the reasons for the proposed suspension. The Committee notes that this 30-day notice period need not be in addition to the 60-day (or longer reasonable) period, but rather may be subsumed within it.

In a case in which the institution has been provided with notification of its noncompliance or violation and has indicated to the VA its refusal to take corrective action, the VA could proceed immediately to provide the 30-day notice to the students concerned.

This student-notice requirement reflects two important considerations. First is the Committee's concern that benefits to which eligible veterans and eligible persons are rightfully entitled not be suspended without prior notification to those individuals so they have an opportunity to demonstrate to the VA that their benefits are being properly paid or to express to the school their desire for the school to bring itself into compliance with the requirement in question. In this regard the Committee emphasizes that, in the suspension situations that would be covered by the new provision, there would be no evidence of individual ineligibility in the great majority of cases; if there were, the VA would have the authority under existing law promptly to resolve the bulk of the problem at the school involved through the discontinuation or suspension of benefits in individual cases. The second consideration reflected is the Committee's belief that a recalcitrant institution under pressure from its students will be more likely to make a good faith effort to correct problems that could result in suspending benefits to its students.

The Committee also wishes to emphasize that this proposed suspension authority is not intended to be exercised as to a particular individual when the evidence in the VA's possession indicates that that individual is in fact eligible for educational assistance. Thus, as in the example described above, where a compliance review shows that some individuals are indeed entitled to assistance, the benefits of those individuals is not to be suspended. In addition, the VA should promptly consider evidence submitted by other individuals after the 30-day notice is given and resolve the merits of their contentions before proceeding with any suspension of their benefits under this provision.

Finally, the Committee notes that although the VA's proposed provision would have authorized a permanent discontinuation of benefits in the circumstances outlined, the Committee bill provides authority only for a temporary suspension. The Committee stresses that the purpose here is to bring about necessary compliance by the institution not the discontinuation of assistance to individuals and thus believes that the threat of suspension should be sufficient to bring about compliance in the vast majority of cases.

Clarification of Targeted Delimiting Date Extension

Background

Section 201 of Public Law 97-72, the Veterans' Health Care, Training, and Small Business Loan Act of 1981, which was enacted on November 3, 1981, amended title 38 to provide for a one-time, 2-year extension of the GI Bill delimiting period—that is, an extension of the 10-year period following discharge during which a Vietnam-era veteran may use his or her GI Bill benefits. This extension was targeted on educationally disadvantaged and unskilled or unemployed Vietnam-era veterans and was designed to permit such veterans an additional period of up to 2 years to pursue vocational-objective or apprenticeship or other on-job-training programs and, for those without high school diplomas, to pursue high school equivalency courses. As enacted in Public Law 97-72, the extension became effective on January 1, 1982, and will continue until December 31, 1983.

The purpose behind this extension was to provide in a cost-effective manner for a limited extension of the delimiting period for those veterans of the Vietnam era—particularly but not exclusively those who are unemployed and educationally disadvantaged—who have never effectively utilized the GI Bill benefits to which they are or were entitled and are in need of certain education or training assistance. The provisions of the targeted delimiting date extension that were enacted last year were similar to those passed by the Senate during the 96th Congress in connection with S. 870, but not then agreed to by the House and hence not contained in the final version of H.R. 5288 as it became Public Law 96-466, the Veterans' Rehabilitation and Education Amendments of 1980.

On March 11, 1982, the Veterans' Administration published a notice in the Federal Register requesting comments on the provisions of DVB Circular 22-81-15, dated December 22, 1981, implementing this targeted delimiting date extension. On March 18, Senator Cranston wrote to Administrator of Veterans' Affairs Robert P. Nimmo, expressing concerns about the manner in which the VA is administering this new provision, and expressing the view that the VA's interpretation of this provision is unduly restrictive and not consistent with the underlying congressional intent, as evidenced by the legislative history of the provision. The Administrator's response of April 8 simply restated the position and asserted that the interpretation was consistent with congressional intent. The exchange of correspondence follows:

ALAN K. SIMPSON, WYO., CHAIRMAN
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ROBERT T. STAFFORD, VT.
BOB KASTEN, WIS.
JEREMIAH DENTON, ALA.
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ARLEN SPECTER, PA.
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DENNIS DE CONCINI, ARIZ.
GEORGE J. MITCHELL, MAINE
THOMAS E. HARVEY
CHIEF COUNSEL AND STAFF DIRECTOR

United States Senate
COMMITTEE ON VETERANS' AFFAIRS
WASHINGTON, D.C. 20510

March 18, 1982

Honorable Robert P. Nimmo
Administrator Veterans' Affairs
810 Vermont Avenue, N.W.
Washington, D.C. 20420

Dear Bob,

I am writing in response to the March 11, 1982, Federal Register notice requesting public comments on the provisions of DVB Circular 22-81-15, dated December 22, 1981, which implements the so-called targeted delimiting date extension provision enacted in section 201 of the Veterans' Health Care, Training, and Small Business Act of 1981* (Public Law 97-72). The substance of the concerns expressed in this letter were shared in January by Committee Minority staff with Chuck Hagel and Bob Coy.

Under the new provision (section 1662(a)(3) of title 38, United States Code) a veteran whose GI Bill delimiting period has expired or will expire before December 31, 1983, has until that date to use his or her remaining entitlement for vocational training or apprenticeship or other on-job training if the Administrator has determined that the veteran is "in need" of the training "in order to achieve a suitable occupational or vocational objective." That determination is to be made in accordance with regulations that the Administrator must prescribe.

Although the new provision gives the Administrator certain programmatic flexibility in making determinations regarding the veteran's "need" for training, I have very substantial concerns regarding the unduly restrictive manner in which the Circular implements this legislation. As to certain restrictions, I doubt the legal authority; as to others, I seriously question the policy justification. On the whole, I believe the manner in which the VA is implementing this provision is inconsistent with the Congressional intent underlying the provision as evidenced by its legislative history, and represents what will be perceived as a broken promise of assistance to many Vietnam-era veterans.

My specific comments follow:

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*In the Circular, "Small" is incorrectly omitted.

BEST DOCUMENT AVAILABLE

Eligibility Criteria

Section 3.c. of the Circular provides that only veterans who are determined to be "unskilled" will be eligible for vocational and on-job training, and section 6.b. provides that any one (1) who holds a two-year degree or has completed 60 hours of college-level courses, or (2) who has ever held or qualified for more than an entry level job, or (3) who has ever had a job requiring more than three months of vocational preparation will not be considered unskilled, regardless of whether that individual is currently employed or underemployed or able to obtain employment. Thus, the Circular reduces the determination of whether a veteran is "in need" of and thus eligible for training to a mechanical process under which the veteran will be ineligible if any one of these three criteria apply, and, where that is so, the inability of the individual to obtain employment is given no consideration.

This approach is inconsistent with the legislative history of section 201 of Public Law 97-72 in two major respects. First, that legislative history is replete with evidence that the purpose of this provision is to help deal with the employment problems of Vietnam-era veterans. The House Veterans' Affairs Committee, on page 5 of its report on H.R. 3423 (H. Rept. No. 97-78), stated, with respect to the provision from which section 201 of Public Law 97-72 was derived, that the purpose was to provide a "means to isolate and target job training and placement for those veterans of the Vietnam Era *who are still experiencing employment problems*." (Emphasis added.)

In this same connection, on page 4 of that report, the House Committee expressed its concern for the "needs of ... veterans who have not successfully readjusted, many of whom are frequently unskilled, unemployed, or underemployed." Those concerns were echoed during the Senate's consideration of its version of the provision (see the debate on Amendment No. 48 to S. 921 in the *Congressional Record*, pages S6205-07, daily ed., June 15, 1981). During the floor debate on the Senate provision, I described the extension proposal, of which I was the author, as a means of assisting "unskilled, unemployed Vietnam-era veterans" whose needs could be "seen in the high rates of unemployment that continue to plague this segment of the labor force", and the Chairman of the Senate Committee described the provision as "an effective way to reach and provide assistance to those Vietnam-era veterans who are in need of employment *or* minimal educational assistance." (Emphasis added.)

Finally, in October during the Senate debate on final passage of the provision that was enacted, I noted that it "should be of particular benefit to those veterans seeking assistance from vet centers who have employment-related difficulties" (*Congressional Record*, page S11587, daily ed., October 16, 1981).

Thus, it is clear that the Congressional intent was to focus the extension of vocational and on-job training assistance on Vietnam-era veterans who are experiencing employment problems. For the VA to ignore those problems wherever one of the three automatic criteria set forth in section 6.b. of the Circular applies, is to ignore or reject the clear legislative purpose of the extension.

The second respect in which the Circular is inconsistent with the legislative history is that the approach taken in the Circular precludes the making of individualized determinations of the "need" for training. As originally passed by the House, the provision in question allowed determinations of need to be made by "a counselor at a readjustment counseling center ..., a State employment office, a veterans' assistance office, or a Veterans' Administration medical facility ...." Under the provision enacted into law, the authority to make determinations of need was granted only to the Administrator because of concerns related to the administrative and other problems that could result from granting such adjudicatory authority to various categories of personnel with no adjudicatory experience. There was no intention whatsoever to abandon the individualized approach to making determinations of eligibility.

Thus, although the three criteria discussed above may be appropriate in order to determine who should not automatically be eligible for the extension, they seem to me much too rigorous to cause automatic ineligibility. Moreover, unless there are reasonable policy justifications for these rigid categories of ineligibility, I believe that the criteria in the Circular are vulnerable to challenge on grounds of arbitrariness and capriciousness in agency action.

What is lacking, in order for the Circular to be consistent with the law and Congressional intent, is a criterion for making individualized determinations of eligibility in the cases of unemployed or underemployed veterans who are clearly in need of training despite the fact that one of the existing criteria for denying eligibility applies. Thus, I strongly urge that a new criterion be added providing that if any one or more of these three factors are present, eligibility be determined by examining the veteran's overall employment and training history to determine whether or not the veteran requires training, in order to obtain a reasonably stable employment situation consistent with the veteran's abilities and aptitudes. (Explanatory materials could indicate that a temporary lay-off in a skilled occupation would not provide eligibility in the absence of circumstances indicating that there is no reasonable expectation that the veteran will be able to maintain employment in that or a similar occupation.) In the case of a veteran who has more than 60 semester hours of college credit or has obtained a two-year college degree, guidelines should require that the veteran be referred to a qualified counselor to determine if the credits or the degree represent an attainment of a skill that the veteran is likely to be able to use in the employment market in the foreseeable future. Likewise, notwithstanding the nature of previously held employment, substantial periods of unemployment should also be taken into account as part of making a fair evaluation of the current relevance of the veteran's prior training and experience. Finally, the guidelines should require that consideration also be given to the period of time that has elapsed since the end of any prior training and employment. For example, although as noted in section 6.b.(2)(c) of the Circular, a veteran who had training as an ambulance attendant prior to military service may very well have trained for nine months, ten years later that training may not provide the veteran with a realistic opportunity for employment and should not alone be a grounds for denying the veteran a delimiting date extension.

Exclusion of Correspondence Training

I also believe that the blanket exclusion, in section 3.d. of the Circular, of correspondence training benefits during an extension is clearly unauthorized and contradicted by the legislative history of Public Law 97-72. The only specific type of vocational-objective training considered for exclusion by the Congress was flight training, and the legislation as originally passed by both Houses provided such an exclusion. That exclusion was deleted from the provision ultimately enacted on the grounds that, since Public Law 97-35, the Omnibus Budget Reconciliation Act of 1981, had terminated GI Bill benefit eligibility for post-September 30, 1981, enrollments in flight training, the exclusion of flight training was superfluous. Further, as the author of the Senate-passed version of the extension provision, I call your attention to my remarks, made during this Committee's April 30, 1981, hearing (excerpt from the hearing enclosed) specifying that it was indeed the intent to permit correspondence training to be pursued under that extension. Nothing in the language or anywhere else in the legislative history of the enacted provision negates that expression of intent.

Exclusion of College-level Degree Courses

With respect to the limitations that have been placed on the programs of study which may be pursued by a veteran during an extension, I would appreciate clarification on the status of certificate programs offered by junior and community colleges. It is my understanding that such vocational-objective programs of study would be approved under the extension if the program met the applicable criteria for VA approval. Is this a correct understanding?

I would also like to know what arrangement would be made to enable a veteran to use the extension to pursue vocational-objective training if he or she (1) resides in a geographically-remote area where there are no trade or technical schools and the local community college offers vocational-objective type training only through associate degree programs or (2) wishes to pursue training that is offered only through a degree program.

In this connection, I note that there is no legislative language or history supporting the blanket exclusion, in section 3.d. of the Circular, of college-degree courses. Indeed, the law expressly provides the extension for pursuit of "a course with an approved vocational objective". As defined in VA regulations (38 CFR 21.4230(b)), a vocational-objective program of education is "one that leads to an occupation" and "may include educational objectives essential to prepare for the chosen occupation". On this basis, it seems clear to me that a program leading to an associate's degree in, for example, auto mechanics or air conditioning repair could be considered vocational-objective training. Why have you determined that such a program should not be covered by the extension?

Need for Data

Finally, in light of the short, two-year period of eligibility, I am concerned about the time involved in processing applications for extensions. In this regard, I would appreciate receiving from you, on an expedited basis, summaries of the quarterly reports on the implementation of this provision required to be submitted to Central Office by section 12 of the Circular, as well as an indication, on a quarterly basis, as to the average processing time for applications (broken down to show time involved in applications approved and applications denied). Further, in light of the concerns I have raised and the possibility of future administrative or legislative action to modify what I believe are excessively rigid criteria lacking either statutory or policy justification, I urge that steps be taken to assure that records are maintained on those veterans whose applications have been denied so that, if need be, those veterans can be contacted in the future.

Thank you for your consideration. I look forward to hearing from you regarding this matter in the near future.

With warm regards,

Cordially,

Alan

Alan Cranston
Ranking Minority Member

Inclosure

cc: Honorable Charles T. Hagel
John P. Murphy, Esquire
Ms. Dorothy L. Starbuck

VETERANS ADMINISTRATION
OFFICE OF THE ADMINISTRATOR OF VETERANS AFFAIRS
WASHINGTON, D. C. 20420

APRIL 8 - 1982

Honorable Alan Cranston
Ranking Minority Member
Committee on Veterans' Affairs
United States Senate
Washington, D.C. 20510

Dear Senator Cranston:

Thank you for your letter of March 18, 1982, concerning implementation of Public Law 97-72, the Veterans' Health Care, Training, and Small Business Act of 1981.

With the amendment to section 1662(a) of title 38, United States Code, which provided an extension to the delimiting period of certain Vietnam-era veterans, I was charged with the responsibility for developing criteria for determining the need for such an extension in accordance with the intent of Congress. In reviewing the history of this law, careful note was taken of the expressed legislative intent to extend the delimiting period to allow pursuit of a program of apprenticeship or other on-the-job training, or a program with a vocational objective if the veteran is in need of such training in order to achieve a suitable occupational or vocational objective, or for pursuit of a program of secondary education. This amendment was viewed as a means to provide a limited extension to veterans who, within their original 10-year delimiting period, were unable to effectively utilize their benefits to achieve the education or skills necessary to gain entrance to the workforce.

I believe the eligibility criteria contained in DVB Circular 22-81-15 focus on those veterans who Congress intended to assist; that is, veterans who lack a high school diploma, or the equivalent, and those who are unemployed or underemployed because they do not possess the education or skills that would provide them with an occupation. We do not believe it was the intent of Congress to provide a general extension of the G.I. bill to veterans who do possess a relatively extensive educational background, or a marketable skill, but who are experiencing employment difficulties that are more closely related to the Nation's economic problems in general than with their military service. I also believe that the criteria do allow for individualized eligibility determinations. Our procedures also require a formal administrative decision for most cases, approved by at least a section chief. We also provide for the determination to be made by a professional psychologist if requested by the veteran. Although our criteria may appear rigid, it is our administrative experience that the more discretion that is permitted in such determinations, the more open we are to charges of arbitrariness and capriciousness.

Honorable Alan Cranston

In considering the limitations of the program, it was determined that training by correspondence should be expressly precluded. This decision was based on the provisions of the Housing and Urban Development and Independent Agencies Appropriations Act which, as you are aware, prevents us from reimbursing veterans who may choose such a mode of training. In addition, courses leading to college degrees were excluded. This exclusion was derived from the wording in the law, itself, which permits pursuit of "a course with an approved vocational objective" (emphasis added). Courses are approved under title 38, United States Code, as leading to either vocational, professional, or educational objectives and the requirements for approval differ widely according to the objective to which the courses lead. Although many programs leading to associates degrees in the applied sciences or arts are closely identified with certain vocational objectives (e.g., auto mechanic), such courses do not meet the requirements of the law for approval as leading to vocational objectives. Some schools, usually junior or community colleges, do offer certificate courses that lead to approved vocational objectives. Pursuit of "certificate courses" is permitted in such circumstances.

We will be happy to furnish you a summary of the quarterly reports which we receive from our field stations. Unfortunately, the summary for the first quarter (January 1 through March 31, 1982) will not include a breakdown of the average processing time since our stations were not requested to document this information. In view of your request, however, we are requiring that this information be furnished in future reports, and that a listing be made, by name and claim number, of those veterans whose applications are denied.

I appreciate this opportunity to respond to your concerns in this matter, and look forward to providing you the further information you requested.

Sincerely,

ROBERT P. NIMMO
Administrator

The Committee's concerns with this matter rest primarily with the eligibility criteria established by the VA for veterans who are, in the words of the statute, "in need of [vocational objective or apprenticeship or other on-job training] in order to achieve a suitable occupational or vocational objective." In implementing the extension provision, the VA ignored clear Congressional intent that the extension was to be focused on the needs of Vietnam-era veterans who are experiencing unemployment problems. Instead, the VA took the position that no veteran should be determined to be in need of such vocational or on-job training unless he or she is found to be unskilled and adopted very narrow criteria with respect to who is unskilled. Under these VA criteria, no veteran who holds a 2-year degree or has completed 60 hours of college-level courses, or who has ever held, or even qualified for, more than an entry level job, or who has ever had a job requiring more than 3 months of vocational preparation is considered unskilled. This is so regardless of whether that individual is currently employed or underemployed or able to obtain employment.

Thus, the VA's manner of implementing the provision enacted last year reduces the determination of whether a veteran is "in need" of and thus eligible for training to a mechanical process under which the veteran will automatically be found ineligible if any one of these three criteria apply. Where any of the criteria are found to apply, the inability of the veteran to obtain suitable employment and his or her need for training in order to be able to do so are given no consideration. There is no criterion that permits making individualized determinations of eligibility in the cases of unemployed or underemployed veterans who are clearly in need of training despite the applicability of one of these three regulatorily imposed criteria for denying eligibility.

The most unfortunate effect of these criteria is demonstrated quite dramatically in the VA's data, provided on May 21, 1982, on experience under the extension for the first quarter of 1982. Of 2,455 applications received for delimiting date extensions, only 98—or less than 4 percent of those received—were approved on the basis that the veteran was found unskilled; 575 applications—or about 23 percent—were denied on the grounds that the veteran was not unskilled. There were an additional 1,153 claims still classified as "under development" at the close of the first quarter, generally to determine whether or not the veteran was unskilled.

These numbers contrast sharply with those projected by the Congressional Budget Office last year in connection with its cost estimate for H.R. 3423, the Veterans' Training and Business Loan Act of 1981—title I of which contained the House version of the provision eventually enacted into law. At that time, CBO estimated that 38,900 veterans would receive training under the targeted delimiting date extension and that the cost of the provision would be $52 million in fiscal year 1982 and $90 million in fiscal year 1983. The provision ultimately enacted was no less restrictive than that which formed the basis for these CBO cost estimates.

It should also be noted that the VA, in its December 29, 1981, press release announcing the availability of the extension stated that:

> As many as 39,000 Vietnam-era veterans are expected to take advantage of . . . (this) extension . . .

Further, in its fiscal year 1983 budget documents, the VA estimated that $48.6 million would be expended for this program in fiscal year 1982, and the VA's fiscal year 1983 budget request included $68.7 million in the VA's readjustment benefits account for this delimiting-date extension. Certainly, the way the provision is being implemented by the VA will never permit participation to reach the level assumed in these projections.

The VA has advised that it is prepared to make a series of appropriate but minor modifications in the manner in which automatic ineligibility is being determined. Specifically, the Chief Benefits Director Dorothy Starbuck sent the following August 17, 1982, letter to Chairman Simpson and Ranking Minority Member Cranston:

Department of Veterans Benefits
Washington, D.C. 20420

Veterans Administration

AUG 17 1982

Honorable Alan K. Simpson
Chairman
Committee on Veterans' Affairs
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

The House Veterans Affairs Committee Subcommittee on Education, Training and Employment held a hearing on June 17, 1982, regarding the implementation of Public Law 97-72. Much of the testimony introduced at the hearing concerned the extension of delimiting dates of veterans who are educationally disadvantaged or unskilled. In response to inquiries regarding the large number of denials associated with this program, I indicated that I would have a special review conducted of ten percent of the claims denied to determine whether the decisions were proper. The review has been completed and the findings are enclosed for your information.

The examination of 309 individual case files selected from sixteen of our field stations indicated that the decisions to deny extensions of delimiting dates were proper under existing criteria. However, several concerns were identified which have led me to initiate changes in our processing instructions. Foremost among these changes is an upward revision in the amount of vocational preparation which will be recognized before an individual is considered ineligible for an extension. A job requiring three months or less of vocational preparation was defined as being entry level in DVB Circular 22-81-15 dated December 22, 1981. That level was based upon our belief that large numbers of veterans with very low skill levels would apply for an extension and that this program should be targeted to those most in need of assistance. Such has not proven to be the case, and I believe an upward revision of this criterion is justified. I am, therefore, allowing up to two years of vocational preparation, rather than the previous three months, as constituting entry level for purposes of an extension of delimiting date.

The second primary change involves the consideration of military training and experience as vocational preparation. Background in the military had been evaluated on the same basis as other training and experience, but the review found that extremely few of the veterans who applied under PL 97-72 had subsequently used military skills in civilian employment. I am, therefore, directing that military training and experience not be considered as vocational preparation. The only exceptions will involve career military personnel

In Reply Refer To 22A

and those veterans who have subsequently continued civilian careers directly related to military preparation. Third, I am instructing our field stations not to consider vocational preparation attained prior to entering the military as precluding eligibility. It is my belief that the changes which I have initiated will result in a substantial increase in the numbers of veterans who will qualify for an extended delimiting date under the provisions of PL 97-72.

I was also concerned that a portion of the veterans who requested the help of counseling were not afforded this assistance. Therefore, our instructions will be clarified and expanded with respect to counseling. Decisions based upon limited or dated information will be reduced, and development of current information from veterans will be increased. Added emphasis will be placed on the need to provide veterans with information about alternative programs, such as vocational rehabilitation, as well as the need to properly inform all denied applicants of their appellate rights. These procedural changes are intended to further enhance the operation of this program and provide needed services to those who apply.

A listing is being maintained at each field station of veterans whose applications have been denied. Cases on this listing will be individually reviewed to determine eligibility under these revised criteria. Those who are found to be eligible will promptly be notified of this decision. Our revised procedures will be included in an amendment to the basic circular for field station distribution and for publication in the Federal Register. I trust that this information will be of assistance to you in your continuing oversight of this program.

Sincerely yours,

DOROTHY L. STARBUCK
Chief Benefits Director

Enclosure

VETERANS ADMINISTRATION

DEPARTMENT OF VETERANS BENEFITS

Review of Claims Folders - Denial of Delimiting Date Extensions Under Public Law 97-72

1. BACKGROUND

a. Public Law 97-72 amended Title 38 U.S.C, Section 1662(a) to provide an extension of delimiting dates under chapter 34 for veterans who do not have a high school diploma, and for those who are found to be in need of vocational or job training because they are unskilled. DVB Circular 22-81-15 with Changes 1 and 2 provides instructions for extending the delimiting dates of veterans who are educationally disadvantaged or unskilled. Statistics regarding this program are generated through a quarterly report (RCS 22-28), and data indicate that claims have been denied in 82% of the cases processed.

b. The Chief Benefits Director, in testimony on June 17, 1982, before the HVAC Subcommittee on Education, Training and Employment, made a commitment to review ten percent of the denied claims to determine if the actions were proper and in accordance with agency directives. In compliance with this commitment, the Education Service requested 311 denied claims from 16 regional offices. The cases selected were from the stations shown below:

EASTERN		CENTRAL		WESTERN	
Atlanta	25	Des Moines	28	Albuquerque	13
Boston	14	Detroit	25	Portland	20
Hartford	6	Indianapolis	21	San Francisco	20
Newark	18	Montgomery	20	Seattle	20
Philadelphia	20	Nashville	26		
St. Petersburg	27	Sioux Falls	8		
TOTALS	110		128		73

c. There were 310 cases actually received of which 309 were usable for review purposes (one case was an approval). A special review team comprised of four technically competent staff members conducted dual reviews of all files. A review sheet (Attachment A) was devised and completed for each case examined. Following the completion of all reviews the results were tabulated on summary data sheets (Attachment B). Individual station letters are being prepared enumerating any corrective actions or procedural changes needed.

2. FINDINGS

a. Denial Actions: In no instance did Central Office review find the station denial to be incorrect under existing criteria. There were many procedural points of difference among the stations and several cases where further development would have been recommended. However, even in these cases the information on file was sufficient to support the denial of the claim.

b. Procedural Improprieties: In 44 instances, 14.2%, there was an incorrect referral to VR&C which was not requested or a failure to refer when counseling was requested. When a case was not referred as requested, the Adjudication Division properly denied the claim although the claimant was not afforded the benefit of other counseling assistance. In 30 cases, 9.7%, there was no documentation to indicate that appellate information was sent to the veteran. Ten veterans, 3.2%, who were informed of appellate rights, had filed a notice of disagreement. Some cases did not have formal administrative decisions prepared as required while others prepared decisions unnecessarily. In all of these cases the denial action was proper and supported by evidence of record. Some of the letters to the veterans did not fully explain the basis for denial and resulted in followup inquiries for clarification. Attachment H contains select data broken down by station.

c. Specific Vocational Preparation: Most veterans had attained levels of education, training or experience equivalent to two to four years of preparation. The average of the highest SVP codes assigned to the cases was 6.4. Not all cases had SVP codes since some denials were based upon college credit, failure to respond, etc. Some cases had more than one SVP code, and in these instances the highest code was used. There were 218 cases which had a code available, and 111 of these achieved an SVP of 7. There were only 21 cases, or 9.6%, with a code of 4, the lowest SVP which would preclude eligibility for an extension. Attachment C contains a complete depiction of the distribution of scores. Attachment C-1 defines the various SVP codes available.

d. Entitlement Use: Veterans in this sample used a mean of 12.65 months of prior VA educational entitlement. There were 47 veterans, 15.2%, who had used no prior educational benefits and 21 veterans, 6.7%, who had used more than 36 months of entitlement. The request for an extension represented a second or subsequent change of program for 88 veterans, 28.5% of the total. Attachment D has a breakdown of benefit use by station, and Attachment H shows second change of programs.

e. Educational Attainment: There were 34 veterans, 11.0%, who did not have a high school diploma or GED, and 62 veterans, 20.0%, who were college graduates or who had completed two or more years of college. It was noted that among those with no high school diploma many had attained some type of training since leaving the military - NCD program, correspondence course, or OJT/apprentice training. Attachment E presents data on educational attainment.

f. Training Requested: College level training was the most requested type of program with 70 veterans, 22.7%, asking for college attendance. However, nearly half of these college requests were for two-year technically related degree programs. Only 10 veterans, 3.2%, requested high school training although 11% of the applicants were not high school graduates. All denials for high school training were based upon the course having no charge for tuition and fees. Allowable payment is limited by law to the cost of tuition and fees charged. Forty-two claims, 13.6%, were for mechanical or machinist training and 34 claims, 11.0%, were for various OJT/apprentice courses. Approximately half of the OJT/apprentice applicants were already employed in the requested program. Attachment F lists the primary categories of training requested.

g. Age of Applicants: The average age of the applicants was 35.3 years, with 274 veterans, 88.7%, falling between 31-40 years of age. Twelve veterans, 3.9%, were 30 years or younger, and 13 veterans, 4.2% were over age 50. St. Petersburg had the high mean age of 29.6 years and Albuquerque the lowest at 32.9. Attachment G contains further breakdown.

h. Veterans' Employment: Definitive information was not available in the claims folder to provide meaningful data on veterans' last employment, salary, location, length of time so employed, or reason for unemployment. A substantial number of denials based on "not unskilled" were supported by evidence of record in the claims file, and no development was necessary or undertaken. Although the information of record was sufficient to support the denial action, it did not provide current employment information. The few cases which contained information regarding reasons for unemployment focused on economic conditions - "plant closed", "laid off", "cut back in work", "went bankrupt", etc. In no instance was lack of skill or training stated as a factor in unemployment. Neither was veteran status or prior military service listed as a contributing factor to lack of employment.

3. DISCUSSION

a. The total Vietnam Era veteran population numbers 9,757,000. Of this gross population, only 5,378 applications have been received requesting an extension under PL 97-72. Based upon this low number of applicants and the results of the case reviews, it is postulated that unemployed and underemployed Vietnam Era veterans are more interested in securing viable employment than in undertaking an extended program of education or training. It is further observed that the types of training requested by the applicants did not differ substantially from the types of training or employment previously experienced by these same applicants. One veteran who has a background in welding may apply for a program of training in auto mechanics while another veteran in the same locale who is experienced as a mechanic may be applying for welding. It is proposed that the types of programs generally requested for extension would not substantially enhance the veterans' employability.

b. The denial actions by the various field stations were all correct according to the minimum requirements stated in DVB Circular 22-81-15, but further development was suggested in many instances. Several stations denied claims purely from information of record even though such information was marginal and dated. Information contained on the DD 214 (separation from active military duty form) or VAF 22-1990 (initial application for GI Bill benefits) formed the basis for a large number of denials premised upon "not unskilled". A more liberal development policy at these stations may or may not have affected the outcome of the claims. However, in select instances where information was developed, it was noted that decisions based solely on job titles carried higher SVP codes than decisions which considered an expanded description of duties. This would suggest an expansion of the criteria used to justify a development letter. Development should perhaps become mandatory in any case where complete education and employment information (as defined in DVB Circular 22-81-15, paragraph 5.b.(1)-(3)) is not of record.

c. Twenty-nine (9.4%) of the veterans who applied for an extension had a service-connected disability of 10% or greater. An additional five applicants referenced non-military injury or illness as a factor in requesting an extension. In only one of all these cases was counseling provided. In two other cases counseling was requested but not furnished. The Veterans Administration has traditionally recognized a higher obligation to assist disabled veterans than other categories of applicants, but it appears that such "extra help" was not provided in these cases. Even though the denial of the claims was proper, it is believed that further assistance was called for -- such as furnishing information about Chapter 31 or state vocational rehabilitation. These cases will be brought to the attention of the respective regional offices, but perhaps there is a need to amplify instructions for all stations.

d. An overwhelming majority of applicants (82.6%) had SVP codes of 6 or higher. These equate to formal training or experience of over one year up to and including ten years. This high level of preparation, although possibly somewhat inflated as mentioned in paragraph 3.b., strongly supports the premise that the denials were proper inasmuch as the applicants were "not unskilled." Consideration could be given to raising the minimum SVP code. For example, changing from level 3 to level 6 would have allowed 84 (38.5%) more approvals in the cases reviewed.

e. (1) The Vietnam Veterans Civic Council of the Detroit VARO had made several recommendations concerning the implementation of PL 97-72. One recommendation is to include associate degree programs at community colleges which do not lead to a bachelor's degree program (i.e. associate degree in welding, automotive technology, etc.) as vocational training. Approximately 10% of the veterans in this review requested extensions for attending vocationally oriented programs at community colleges. Such programs cannot presently be approved because they do not meet the requirements of the law for approval as courses with vocational objectives.

e. (2) The Council has also recommended that military training and experience be excluded from the determination of job skills. Training and experience received while in the military is evaluated on the same basis as other training and experience. However, it was noted in our review that practically no one-term servicemen subsequently pursued civilian careers related to their military specialty. Further, it was noted that the actual military duties, when developed, often did not equate to the position title (i.e. a "wheeled vehicle mechanic" may have changed tires and washed trucks in reality). Elimination of military skills, with two qualifications, would seem to be supported. The two qualifications would exclude career military personnel and those who have subsequently pursued civilian employment based upon military experience.

f. In summary, the implementation of PL 97-72 appears to be substantively correct but in need of procedural attention. The veterans whose folders were reviewed were indeed either not unskilled or not educationally disadvantaged. No one was improperly denied an extension of delimiting date. Development of information, administrative decisions, referrals for counseling, and denial letters can all be improved. Consideration of the points discussed in this paper can perhaps enhance further the operation of this program.

Attachment A

REVIEW OF CLAIMS FOLDER (PL 97-72) CO REVIEWER ____________________

1. (a) ____________________ (b) ____________________ (c) ____________________
Claim Number Veteran's Name Regional Office

(d) Course Applied For: ____________________ (e) Basis for Station Denial:
____ Not Educationally Disadvantaged
____ Not Unskilled
____ Other (specify) ____________
____

2. (a) ____________________ (b) ____________________ (c) ____________________
Dates of Service Date of Birth Number of Dependents

3. (a) Have previous VA education benefits been used? ____ Yes ____ No

(b) If "yes", attach MINQ Screen M21, M22, M23, and/or M24 as appropriate showing all programs, dates, objectives, and whether a loan is in effect.

(c) Highest level of education attained: ____________________

4. (a) Does the veteran have a service-connected disability: ____ Yes ____ No

(b) If "yes", attach MINQ Screen M13 showing the nature and percent of disability.

CENTRAL OFFICE REVIEW

5. Is the veteran educationally disadvantaged? ____ Yes ____ No ____ Unknown (development needed)

6. Is the veteran unskilled? ____ Yes ____ No ____ Unknown (development needed)

(a) Training since high school: (list others on back)
(1) Course ____________________
(2) Completed ________ Yes ________ No
(3) Dates ____________________
(4) EPV Code ____________________

(b) Last Employment: (list others on back)
(1) Title ____________________
(2) Employer ____________________
____
(3) Salary ____________________
(4) Description ____________________
____
(5) Dates ____________________
(6) Reason for Unemployment ____________________
____
(7) EPV Code ____________________

(c) Employment Training: (list others on back)
(1) Description ____________________
____
(2) Hours of instruction ____________________
(3) Dates ____________________
(4) EPV Code ____________________

7. Delimiting date extension should be denied based upon:
____ no response to development request
____ entitlement exhausted
____ other (specify) ____________________
____

8. (a) Was the requested program approved for VA benefits: ____ Yes ____ No

(b) If "no", was proper development done? ____ Yes ____ No

9. (a) Did this request count as a second change of program? ____ Yes ____ No

(b) If "yes", was it approved? ____ Yes ____ No

10. (a) Was counseling requested? ____ Yes ____ No

(b) If "yes", was it provided? ____ Yes ____ No

11. (a) Was the administrative decision properly prepared? ____ Yes ____ No

(b) If "no", what were the problems: ____________________
____

12. (a) Was the dictated denial letter to the veteran properly prepared? ____ Yes ____ No

(b) If "no", what were the problems? ____________________
____

ATTACHMENT B

Claim Number	Course Applied For	Basis for Denial	Dates of Service	Age	#of Dep	Prio Use Edu	Type of Training Use	Hig Edu	SCD %	Edu Dis	Uns kil	Training Since H S (SVP)	Employment (SVP)	Employment Training (SVP)	2nd Chg	Coun Requ	Co Prov	Appe Rts Gvn	FILE

HIGHEST SVP CODE

EASTERN	SVP 4	SVP 5	SVP 6	SVP 7	SVP 8	SVP 9
Atlanta	2	2	3	5	4	
Boston	1	1		8	1	
Hartford		1	1	1		
Newark	2	1	3	7	1	
Philadelphia	1		3	9	3	
St. Petersburg		3	5	10	3	
CENTRAL						
Des Moines	5	1	6	9	2	
Detroit	2		4	10	2	
Indianapolis	1	1	4	4		
Montgomery		2	6	3	1	
Nashville	3	3	3	12		
Sioux Falls				5		
WESTERN						
Albuquerque	1			9	1	
Portland			3	4	1	
San Francisco	1	1	1	7	3	
Seattle	2	1	4	8	1	
TOTAL	21	17	46	111	23	0 = 218*
PERCENT	9.6%	7.8%	21.1%	50.9%	10.6%	0%

AVERAGE: SVP 6.4

(* Although 309 cases were included in the review, only 218 had SVP codes assigned. The balance of the cases were denied based upon college achievements, failure to respond, dishonorable discharge, etc.)

Attachment C

Appendix D
Specific Vocational Preparation (Training Time)

This represents the amount of time required to learn the techniques, acquire information, and develop the facility needed for average performance in a specific job-worker situation. The training may be acquired in a school, work, military, institutional, or a vocational environment. It does not include orientation training required of even every fully qualified worker to become accustomed to the special conditions of any new job. Specific vocational training includes training given in any of the following circumstances:

a. Vocational education (such as high school commercial or shop training, technical school, art school, and that part of college training which is organized around a specific vocational objective).
b. Apprentice training (for apprenticeable jobs only);
c. In-plant training (given by an employer in the form of organized classroom study).
d. On-the-job training (serving as learner or trainee on the job under the instruction of a qualified worker).
e. Essential experience in other jobs (serving in less responsible jobs which lead to the higher grade job or serving in other jobs that qualify)

The following is an explanation of the various levels of specific vocational preparation.

Short demonstration.

Level	Time
1	Short demonstration.
2	Anything beyond short demonstration up to and including 30 days.
3	Over 30 days up to and including 3 months.
4	Over 3 months up to and including 6 months.
5	Over 6 months up to and including 1 year.
6	Over 1 year up to and including 2 years.
7	Over 2 years up to and including 4 years.
8	Over 4 years up to and including 10 years.
9	Over 10 years.

ENTITLEMENT USE DATA

EASTERN	Avg. Use	0	1-3	3-6	6-12	12-24	24-36	36-44	45+
Atlanta	18.78	-	2	3	3	9	6	2	-
Boston	11.41	1	3	4	-	4	2	-	-
Hartford	15.17	2	-	-	1	2	-	-	1
Newark	12.78	2	1	3	3	6	-	2	-
Phila	14.18	4	-	3	5	3	3	2	-
St. Pete	10.69	6	3	3	5	6	4	-	-
CENTRAL									
Des Moines	9.01	5	3	4	8	6	2	-	-
Detroit	9.49	7	-	8	5	1	3	1	-
Indianapolis	13.75	3	1	2	6	6	2	2	-
Montgomery	18.99	-	3	2	2	7	2	4	-
Nashville	16.94	3	2	3	3	7	5	2	1
Sioux Falls	5.69	2	3	1	-	2	-	-	-
WESTERN									
Albuquerque	8.88	4	1	-	3	4	1	-	-
Portland	12.34	2	6	2	2	4	2	1	-
San Fran	10.89	4	1	4	6	1	1	2	-
Seattle	13.43	2	2	3	3	6	3	1	-
TOTAL	12.65	47	31	45	55	74	36	19	2 = 309
PERCENT		15.2%	10.0%	14.5%	17.8%	23.9%	11.7%	6.1%	0.6%

Attachment D

Attachment E

EDUCATIONAL ATTAINMENT

EASTERN	Less Than 12 Yrs.	12 Yrs. or GED	12 Yrs. & NCD	Col. Less Than 2 Yrs	Col 2-4 Yrs	Col. Grad.
Atlanta	2	2	11	2	8	
Boston	3		2	3	6	
Hartford		2	3			1
Newark	1	1	6	5	2	2
Phila	1	3	9	3	1	3
St. Pete	1	6	9	7	3	1
CENTRAL						
Des Moines	9	4	5	8	2	
Detroit	2	4	5	10	1	3
Indianapolis		3	9	5	4	1
Montgomery	4	1	7	4	4	
Nashville	2	3	11	4	5	1
Sioux Falls	1	1	3	3		
WESTERN						
Albuquerque	1	2	5	3	2	
Portland	1	2	3	8	5	
San Fran	3	4	2	6	3	1
Seattle	3	2	12		2	1
TOTAL	34	40	102	71	48	14 = 309
PERCENT	11.0%	12.9%	33.0%	22.9%	15.5%	4.5%

Attachment E

Attachment F

REQUESTED TYPES OF TRAINING

EASTERN	College	H.S.	Not Stated	Carpentry, A/C, Refrig.	Machinist/ Mechanic	Welding	OJT/ App.	Radio/TV Electronics	Data Process Computer	Other
Atlanta	5	1	1	3	3	2	3	5		1
Boston	5	1	3		3		1			1
Hartford	2		2		2					
Newark	3	1	3		2		5		3	
Phila	3	1			1	1	9	1	2	2
St. Pete	5		3	5	3	1		2	2	6
CENTRAL										
Des Moines	9		3	1	5	4				6
Detroit	5	1	1	1	2	4	4	1	2	4
Indianapolis	6		1	1	5	1	2	1	1	5
Montgomery	1		4	3	4	4	1	1		2
Nashville	3		1	3	5			6		8
Sioux Falls	4		1			1	1	1		
WESTERN										
Albuquerque	3		2	1	2	1	1		1	2
Portland	8		2		1	2	1	1	1	3
San Fran.	4	2	2			2	3	3	1	2
Seattle	4	3	2		4	1	3	1		2
TOTAL	70	10	31	18	42	24	34	23	13	44 = 309
PERCENT	22.7%	3.2%	10.0%	5.8%	13.6%	7.8%	11.0%	7.4%	4.2%	14.2%

Attachment G

AGE DATA

EASTERN	Avg. Age	25-30	31-35	36-40	41-45	46-50	51-55	56-60	60+
Atlanta	34.4	2	18	2	2	-	1	-	-
Boston	38.0	-	7	5	-	-	2	-	-
Hartford	34.0	-	5	1	-	-	-	-	-
Newark	34.4	-	14	3	-	-	-	-	-
Phila	34.2	1	12	7	-	-	-	-	-
St. Pete	39.6	-	13	6	-	2	4	2	-
CENTRAL									
Des Moines	35.1	2	16	9	-	-	-	1	-
Detroit	35.6	1	14	9	-	-	-	1	-
Indianapolis	33.9	1	16	4	1	-	-	-	-
Montgomery	35.6	-	13	6	-	-	-	1	-
Nashville	36.1	1	14	10	-	-	-	-	1
Sioux Falls	37.4	-	3	4	-	1	-	-	-
WESTERN									
Albuquerque	32.9	1	10	2	-	-	-	-	-
Portland	33.4	1	14	4	-	-	-	-	-
San Fran	35.3	1	11	5	2	-	-	-	-
Seattle	35.0	1	11	6	2	-	-	-	-
TOTAL	35.3	12	191	83	7	3	7	5	1 = 30
PERCENT		3.9%	61.8%	26.9%	2.3%	1.0%	2.3%	1.6%	0.3%

Attachment G

[illegible]

EASTERN	Request was 2nd Change	Not Refer/ Incorrect Refer to VR&C	Appellate Info Not Given	NOD Filed
Atlanta	6	2	1	1
Boston		5	4	
Hartford		1		
Newark	5		4	2
Phila	6		2	
St. Pete	5	4	1	
CENTRAL				
Des Moines	8	4	1	
Detroit	5	3	1	
Indianapolis	4	2	1	
Montgomery	13		5	1
Nashville	13	4		2
Sioux Falls		3		3
WESTERN				
Albuquerque	6	2	1	
Portland	5	10	4	
San Fran	6	4	4	
Seattle	6		1	1
TOTAL	88	44	30	10
PERCENT	28.5%	14.2%	9.7%	3.2%

Attachment H

The Committee is somewhat encouraged by the modifications of the VA's previous intractable position. The new criteria will still result in automatic ineligibility determinations that will disqualify too many Vietnam-era veterans in need of assistance and still fall short of meeting the needs of certain Vietnam-era veterans who are unskilled, unemployed, or underemployed—needs that this Congress clearly felt should be met and needs that are now even greater, as evidenced by the unemployment rates, than they were when this extension provision was enacted.

In August of this year the rate of unemployment for Vietnam-era veterans, age 25 and older, stood at 8.3 percent—more than 45 percent higher than it was a year ago—representing 681,000 unemployed individuals. Of these 25-and-older Vietnam-era veterans, 86 percent, are 30 years of age or older. In the case of Vietnam-era veterans 35 to 39, those most likely to have been out of the service in excess of 10 years, there were 77,000 more veterans unemployed last month than in August of 1981—198,000 in August 1982 as compared to 121,000 a year ago. In addition, there were 239,000 Vietnam-era veterans age 30 to 34 and 75,000 age 40 and over who were unemployed in August 1982. Thus, there are more than half a million veterans age 30 or over who are unemployed and who could potentially be in need of the kind of assistance the targeted delimiting date extension could offer.

However, the Committee stresses that this program is not intended to exclude veterans who are employed; nor would all Vietnam-era veterans who are unemployed be eligible for the type of training and education available under the targeted delimiting date extension.

As a whole, it is clear that much of the unemployment problem of these individuals is related to the military-service experience of veterans of the Vietnam era. As documented in the March 1981 study prepared for the Veterans' Administration by the Center for Policy Research, entitled, "Legacies of Vietnam: Comparative Adjustment of Veterans and Their Peers", Vietnam veterans have not achieved as high a level of education as their peers and hold jobs that are, on the average, at lower levels than those held by nonveterans of comparable age. They study concluded that, when background differences are controlled, Vietnam-era veterans—and, to the greatest extent, those who served in Vietnam—still show "residual disadvantage in educational and occupational attainment" and that in general "military duty in Vietnam had a negative effect upon post-military achievement."

Thus the Comittee bill would amend the targeted delimiting-date extension enacted last year—section 1662(a)(3) of title 38, to clarify congressional intent by substantially limiting the programmatic flexibility given the Administrator to make determinations regarding a Vietnam-era veteran's need for training. The provision would thus invalidate section 3.c and 6.b of DVB Circular 22-81-15, the regulatory provisions restricting eligibility for the delimiting period extension, and would instead establish specific statutory criteria for determining the need for training. Under this provision the veteran could not be determined ineligible without an examination of the veteran's particular employment and training history; he or she would be found eligible if an examination showed the veteran to be in need of an OJT or vocational program of course in order to obtain a reasonably stable employment situation consistent with the veteran's abilities and aptitudes.

The Committee emphasizes that this amendment is designed to permit a veteran to be denied eligibility only after a case-by-case determination and to avoid the use of any arbitrary, automatically disqualifying criteria such as those set forth in the DVB circular. In addition, since many of the Vietnam-era veterans for whom this extension provision was designed have been foreclosed from the opportunity to make appropriate use of their remaining GI Bill entitlement, the amendment would extend their eligibility period for one additional year—until December 31, 1984.

Tolling Delimiting Dates by Reason of Drug or Alcohol Conditions

Background

In the GI Bill Improvement Act of 1977, Public Law 95-202, the Congress provided for the granting of extensions of the 10-year GI Bill delimiting period in the case of an eligible veteran or an eligible spouse who is prevented from pursuing a program of education during that period due to a mental or physical disablity not the result of willful miscounduct. Under that law, the delimiting period does not run during any period of time that the veteran or eligible spouse is determined to have been unable to pursue training because of the disability.

However, there have been a number of instances in which the VA has denied a delimiting-period extension to an otherwise eligible veteran under this authority on the grounds that the disability on which the veteran based his or her claim was an alcohol or drug abuse or addiction disability, which the VA considers categorically to be a condition due to willful misconduct. The VA has based its denial in these cases on the legislative history of the 1977 provision that addressed the issue of how determinations of disability should be made for the purposes of the extension. In particular, the report of the Veterans' Affairs Committee (S. Rept. No. 95-468) on the provision which was enacted as section 203(a)(1) of Public Law 95-202, in discussing the concept of "willful misconduct", stated at pages 69-70:

> In determining whether the disability sustained was a result of the veteran's own "willful misconduct", the Committee intends that the same standards be applied as are utilized in determining eligibility for other VA programs under title 38.

The report further referenced VA regulations and manual provisions relating to the determination of willful misconduct for the purposes of determining service-connected disability. Under the VA's interpretation of those standards (38 CFR section 3.301(C)(2) and (3)) alcoholism and drug addiction and injuries proximately and immediately resulting from the effects of the deliberate ingestion of an alcoholic beverage or voluntary use of a drug—such as an injury incurred in a traffic accident caused by the veteran's driving while under the influence of alcohol or a drug—are considered to be the result of willful misconduct.

In 1979, the Veteran's Affairs Committee reexamined the practical consequences of denying a delimiting period extension in such cases and the dffferences between awarding such an extension on the grounds of alcohol or drug disabilities and awarding other VA benefits, such as compensation or pension, based on such disabilities. As a result of this reexamination, the Committee saw no substantial purpose to be served by denying a veteran a GI Bill delimiting-period extension when the veteran was prevented by a drug or alcohol disability, during part or all of the ordinary 10-year delimiting period, from using GI Bill educational assistance would have considerable value to achieving and maintaining the medical, social, and economic rehabilitation of veteran recovering from disabilities related to alcohol or drugs.

In contrast, the Committee noted that some undesirable consequences might flow from a similar rule being applied for purposes of other VA benefit programs, such as service-connected compensation, where the rate and duration of benefits depend directly upon the severity and duration of the disability. If an individual were to be granted disability compensation for alcoholism or drug addiction, there would be a strong financial incentive established—in the form of a higher rate of compensation or the continuation of receipt of compensation—toward the worsening or prolongation of the disability. Either of these factors are to some extent within the control of the veteran because they depend upon the amount, frequency, and duration of his or her consumption of alcoholic beverages or drugs.

Thus, the Committee reported in S. 870—and the Senate passed in section 201(2) of H.R. 5288—a provision to establish that an alcohol or drug dependence or abuse disability from which a veteran or eligible spouse has recovered shall not, solely for purposes of deciding requests for delimiting-period extensions, be considered to be the result of willful misconduct.

Similarly, in S. 1188, the bill reported by the Committee in 1980 to revise and update chapter 31, relating to VA rehabilitation programs for service-connected disabled veterans, the Senate passed on September 4, 1980, a comparable provision to provide for the tolling of a service-connected disabled veteran's delimiting period for a chapter 31 rehabilitation program on account of an alcohol or drug disability.

However, despite the Committee's strongest urgings, the House would accept neither the GI Bill nor the rehabilitation program provision for delimiting-period extensions based on drug or alcohol disabilities.

Last year, in connection with S. 921, the proposed "Veterans' Programs Extension and Improvement Act of 1981", the Senate again approved similar provisions, and again the House refused to accept them

The Committee believes both that the opportunity to use GI Bill and VA rehabilitation program benefits can be extremely important to the readjustment and rehabilitation of the Vietnam-era and service-connected disabled veterans involved and that the delimiting-period extensions for those who were, but are no longer, prevented by alcohol or drug disabilities from using those benefits would be fully consistent with the readjustment and rehabilitation goals of both programs.

Committee Bill Provisions

Thus, section 209 of the Committee bill contains provisions—derived from Amendment No. 1984, submitted by Senators Cranston and Simpson on July 21, 1982—that would amend chapters 31, 34, and 35 to permit the Administrator to extend delimiting periods in the cases of veterans and eligible persons who have been prevented from using their education or rehabilitation entitlements under title 38 as a result of alcohol or drug dependence or abuse conditions.

In view of certain concerns and objections raised by the Veterans' Administration about the implication of the provision insofar as disability compensation is concerned and about its ability to administer such provisions effectively, the Committee has recast the provisions substantially. The Committee intends that the revised provisions indicate, even more clearly than the prior versions, that these provisions are not intended to undercut, in any manner, any administrative directives or legislative provisions expressly or implicitly to the effect that alcohol or drug abuse or dependence are necessarily the result of willful misconduct. Hence, the Committee bill would make clear that, for the purposes of determining eligibility for an extension of the applicable delimiting period, an alcohol or drug dependence or abuse condition would not be considered a "disability"; it would simply be considered as a "condition" that could have prevented a veteran or eligible person from pursuing a program of education or participating in a program of vocational rehabilitation.

Next, in recognition of the administrative difficulties that could arise from the enactment of the provisions, the Committee bill, unlike prior versions, would not require that the veteran or eligible person has "recovered" from an alcohol or drug abuse or dependence condition, but rather that such a condition be under control to such an extent as to enable an individual to participate in an appropriate program. Further, it would facilitate in two ways the making of determiantions as to whether the individual had actually suffered from such a condition: (1) by requiring that he or she must have received recognized treatment or participated in a program of rehabilitation for the condition and (2) by authorizing the Administrator to prescribe regulations specifying what specific types of treatment would be recognized for this purpose and what forms of rehabilitation programs would be qualifying. Thus, the Administrator would have the authority to make reasonable determinations as to participation in which programs—such as those offered by Alcoholics Anonymous or other treatment source—would qualify an individual for eligibility under the tolling provisions.

Finally, the provisions would limit the length of any extension period to the period of time equal to the length of time that the individual partcipated in a program of treatment or rehabilitation for the condition plus the period during which the individual was able to demonstrate to the satisfaction of the Administrator that the condition prevented pursuit of a program of education or rehabilitation. However, in no event, could the extension exceed 4 years. Thus, the Committee bill would address concerns that an individual would be able to obtain an extremely long period of tolling the applicable delimiting period.

The Committee also notes that the amendments proposed by the Committee bill would make provision for the measurement of the extension period in a manner identical to that provided for extensions on account of disabilities under current law. That is, the delimiting period would again begin to run—after being tolled—on the first day on which the Administrator determines it is reasonably feasible for the individual to begin training.

In addition, under the amendments made by the Committee bill, the period of time for an individual to file an application under this authority for an extension of the delimiting period would be limited. Applications would be required to be filed within one year after whichever is the latest of the date on which the delimiting period would have otherwise expired, the date on which the last period of rehabilitation or treatment for the condition was terminated, or the date on which final regulations to implement the proposed extension authority are published.

In sum, the Committee stresses that it believes that it is simply not necessary to resolve the issue of the relationship of alcohol and drug dependence or abuse conditions to compensation for disabilities in order to make this kind of an education or rehabilitation benefit extension available. Thus, the Committee is proposing the enactment of this provision in a form that is designed as clearly as possible to avoid this issue and hence enhance the prospects for enactment of this legislation.

TITLE III: VETERANS' EMPLOYMENT AMENDMENTS

Background

The history of the Veteran's Employment Service (VES) in the Department of Labor closely parallels that of the public employment system in the United States. The establishment of the national employment service officially occurred with the enactment of the Wagner-Peyser Act of 1937, which included provisions establishing a veterans' employment service.

At the end of World War I, existing Federal employment agencies had the enormous task of finding work for the returning servicemen. As a result, numerous employment bureaus for veterans were established to expedite job placement for returning servicemen.

In 1933, a time of economic standstill and massive unemployment, President Franklin Roosevelt signed into law the Wagner-Peyser Act, Public Law 73-30. The act created in the Department of Labor the United States Employment Service, a national system of public employment office. Maintenance of a Veterans' Service was a part of that service.

Following the end of World War II, the Nation was again faced with major unemployment problems. A major provision of Public Law 78-346, the Servicemen's Readjustment Act (popularly known as the GI Bill of Rights), approved on June 22, 1944, established a job counseling and employment placement service for veterans in the U.S. Employment Service. This provision expanded the responsibilities of the Veterans' Employment Service. During the 5 years from September 1944 to August 1949, nearly 10 million veterans were served in local public employment offices.

On July 16, 1952, the Congress enacted Public Law 82-550, known as the Veterans' Readjustment and Assistance Act of 1952. This act extended the same benefits to Korean veterans as were afforded World War II veterans. Title VI of the act granted Korean veterans, who had served between June 26, 1950, and February 1, 1955, preference in job counseling and placement.

Public Law 89-358, the Veterans' Readjustment Assistant Act of 1966, enacted on March 3, 1966, extended to veterans who served after January 31, 1955, VA educational assistance and job counseling and job placement in the Department of Labor.

The decade of the 1970's saw an increase in legislation to provide employment assistance to disabled and Vietnam era veterans. The 92nd Congress, on October 24, 1972, enacted the Vietnam Era Veterans' Readjustment Assistance Act (Public Law 92-540) to aid veterans of the Vietnam era (August 5, 1964, to May 7, 1975). The act extended priority for employment counseling, job training, and placement services to Vietnam-era veterans, and also added positions to the VES field staff. Many amendments to this act have been made since its enactment in 1972. The Vietnam Era Veterans' Readjustment Assistance Act of 1974, Public Law 93-508, extended veterans' employment services to spouses and widows of totally disabled veterans, prisoners of war, and servicemen missing in action; it also required the Secretary of Labor to implement stringent administrative controls to ensure the delivery of preferential services to veterans.

Public Law 93-567, the Emergency Jobs and Unemployment Assistance Act of 1974, enacted that same year, expanded the functional responsibilities of the Veterans' Employment Service. Section 104(b) of the act required that the Department of Labor, in cooperation with the Department of Health, Education and Welfare and the Veterans' Administration, implement an outreach and public information program designed to inform and involve all eligible veterans in employment, job training, and educational opportunties. It was funded under the Comprehensive Employment and Training Act (CETA), Public Law 93-203.

Other legislation which significantly affected the basis and organization of the VES is the Veterans' Education and Employment Assistance Act of 1976 (Public Law 94-502). Title VI of that act established the position of the Deputy Assistant Secretary for Veterans' Employment (DASVE), to be the principal advisor to the Secretary of Labor with respect to the formulation and implementation of all departmental policies and procedures to the extent that they affect veterans. In conjunction with the creation of the position of DASVE, the Veterans' Employment Service (VES) was made an autonomous program in the Employment and Training Administration of the Department of Labor.

Public Law 96-466, the Veterans' Rehabilitation and Education Amendments of 1980, elevated the position of DASVE to the level of Assistant Secretary for Veterans' Employment (ASVE). In so doing, the Congress intended that the ability of the VES to effectively deal with problems relating to veterans' employment would be dramatically improved. As "the principal advisor" to the Secretary of Labor regarding veterans' affairs, the ASVE would be at the same level and have the same attention and importance within the Department of Labor as the other Assistant Secretaries.

The Veterans' Employment Service (VES), under the direction of the Assistant Secretary for Veterans' Employment, is responsible for ensuring that the legal mandate and the policies of the Secretary of Labor and the United States Employment Service are carried out by the local public employment service offices. VES has a field staff of regional and State directors and Assistants for veterans' emplyment who are responsible for providing functional supervision to State employment services helping, to ensure that legal and policy requirements for veterans' services are maintained effectively. In addition, State employment services have local veterans' employment representatives (LVER's) who provide functional supervision to local employment service/job service offices. The United States Employment Service and State employment services have cooperative agreements with the Veterans' Administration for providing services to veterans.

In January of 1977, the Department of Labor unveiled a three-pronged initiative designed to reduce the high rates of unemployment among Vietnam-era and disabled veterans. The three components of the initiative, which were part of the President's economic stimulus package, were the Help through Industry Retraining and Employment (HIRE) program, a 35-percent new-hire goal for Vietnam-era veterans in public service jobs under titles II and VI of CETA, and the Disabled Veteran Outreach Program (DVOP).

Under the DVOP program, nearly 2,000 disabled veterans were hired with Federal funds (totaling $26 million) by State employment security agencies (SESA's) in the spring and summer of 1977, assigned to local employment service offices. DVOP units were established in 100 of the Nation's largest cities with every State supplied with DVOP capability on a State-wide basis if it had no large cities.

The primary mission of the DVOP program is to identify disabled veterans in need of employment assistance and help them to obtain needed employment services, including counseling, job development and placement. The program's design is to locate and help find jobs for disabled veterans—primarily those from the Vietnam conflict—through the use of formerly unemployed disabled veterans working as DVOP staff, able to understand the needs of other veterans in the same predicament and serving as models to demonstrate to employers how well disabled veterans can work when given a chance.

DVOP staff receive both classroom and on-the-job training in local employment service offices to acquaint them with the full range of services available to veterans. They are taught to recognize a veteran-applicant's need for indepth career counseling or other services. In addition, DVOP staff are prepared to Provide veteran-applicants with information about educational, medical, employment, and social services available to them from the VA, CETA prime sponsors, vocational rehabilitation offices, and other public agencies and community services groups.

DVOP staff perform duties similar to those performed by the regular employment service staff but are required to concentrate their efforts only on disabled and other veterans. The program was so highly successful in the years 1977 to 1980, contributing to more than 135,000 job placements of disabled Vietnam-era veterans, that Congress made the Disabled Veteran Outreach Program permanent in Public Law 96-466, enacted in 1980.

The program, while one of the most successful initiatives to deal with unemployment experienced by veterans, has not been without its problems which the Committee bill seeks to address.

Committee Bill Provisions

Title III of the Committee bill would revise various provisions of existing law contained in chapters 41, 42, and 43 of title 38 to improve employment programs for veterans covered by those chapters.

Congressional Findings and Purpose

In section 301 of the Committee bill, the Committee proposes the Congress' findings relating to the high level of unemployment which currently exists among disabled and Vietnam-era veterans and makes clear that these problems are a national responsibility, appropriately responded to by Federal programs established within the Department of Labor and specifically administered by the Assistant Secretary of Labor for Veterans' Employment (ASVE). The Committee believes all veteran employment programs should be concentrated within the jurisdiction of one office so that accountability and coordination are maximized. The Committee bill would require the ASVE to issue regulations promulgating the policies of veterans' employment programs so that those policies may be more readily communicated to and understood by the large number of persons affected. In addition, the Committee bill would require that, in connection with the provision of maximum employment and training opportunities, priority be given to the needs of disabled veterans and veterans of the Vietnam era.

State and Assistant State Directors of Veterans' Employment Service

The Committee bill contains a series of provisions designed to ensure maximum efficiency of State and Assistant State Directors for Veterans' Employment (SDVE's and ASDVE's respectively). In 1980, title 38 was amended to provide that SDVE's be assigned full-time clerical support. This amendment in Public Law 96-466 grew out of concerns relating to a proposal to eliminate direct Department of Labor clerical support for the SDVE's and, instead, to have such support provided by the States through the employment service. The Committee bill, in light of continuing concerns that such support could be eliminated, would clarify that this clerical support is to be provided full-time Federal employees assigned directly to the SDVE's.

Second, the Committee bill would provide the Secretary of Labor, through the ASVE, the authority to waive the 2-year residency requirement applicable to SDVE's and ASDVE's. In this regard, the

Committee bill would provide that if, after a good faithful search within the State for an eligible veteran for appointment as an SDVE or ASDVE, it is determined that no candidate is available, an ASDVE who had served in another State for at least one year could be appointed to fill the position.

The Committee bill has sought a compromise in response to this issue that has been raised. On the one hand, advocates of the 2-year residency requirement feel strongly that someone unfamiliar with state employers and local employment opportunities cannot adequately represent that State's veterans as an employment director and, therefore, is not qualified. On the other hand, advocates of modified residency requirement point out that sometimes an in-state search does not produce a qualified candidate, and a candidate who has already served as an Assistant State Director would provide an opportunity for career mobility for that group as well as a person who has documented qualifications. The Committee intends to provide flexibility to allow the ASVE to appoint an assistant director from another State if that is the most qualified individual, but makes the decision a matter of his professional judgment.

In addition, the Committee bill would add a series of new responsibilities to those currently ennumerated in title 38 for SDVE's and ASDVE's. These new duties include responsibility for (1) supervising of job listings and referrals of qualified veterans to job vacancies; (2) ensuring that complaints of discrimination filed pursuant to section 2012 of title 38 are resolved in a timely fashion; (3) working with the VA to assist employers in identifying veterans enrolled in chapter 31 vocational rehabilitation training; (4) working with vet centers to identify and assist veterans with readjustment problems who need employment and training assistance; and (5) assisting Federal and State agencies and private employers in acquiring prosthetic and sensitory aids to enhance disabled veterans' employability. Finally, the Committee bill would make an amendment in existing law reflecting anticipated changes in other Federal employment and training legislation, by deletion of references to the Comprehensive Employment and Training Act.

Disabled Veterans' Outreach Program Amendments

The Committee bill contains a series of amendments designed to make improvements in the administration and operation of the Disabled Veterans' Outreach Program (DVOP) now conducted under the authority of section 2003A of title 38. Pursuant to subsection (e) of that section, the Secretary is to administer this program through the Assistant Secretary for Veterans' Employment.

First, the Committee is aware of serious funding and administrative problems that have developed in connection with DVOP. These have primarily arisen as a result of the fact that the program is presently funded out of the Grants-to-States Account (which consists of funds most of which come from a special employer tax known as Federal Unemployment Tax Act (FUTA)) within the Department of Labor, and the fact that, until recently, the ASVE did not have direct day-to-day authority over the program. The Committee understands that the Department has decided to transfer

DVOP to the Office of the ASVE and anticipates that some of the current problems will be ameliorated by that decision. In addition, in connection with the funding of the program, the Committee bill would amend existing law to provide that no provision of any other law or regulation that is not consistent with the provisions establishing DVOP would govern the funds made available by the Department of Labor for DVOP. Thus, without jeopardizing the mandatory nature of the program, the Committee bill would provide that the program would not be subject to restrictions on funding that would be inconsistent with the DVOP authority.

Second, the Committee bill would make clear that funds for DVOP are provided for use in States and not necessarily directly to States. Under existing law, the Secretary is required to make available funds to the States, directly or through grant or contract, to support a mandated level of DVOP specialists. When enacted, the Committee notes that the Congressional intent was to permit the provision of funds either directly to a State or to a contractor within a State. However, the Department of Labor has interpreted the phrase "to the States" to mean that funds may be provided only to the States. The Committee bill would clarify that DVOP funds are made available for use in the States and would thus clearly permit the Department of Labor to enter into contracts within States for the purposes of carrying out the DVOP mission.

Third, the Committee bill would provide a waiver authority in connection with the current-law requirement that 25 percent of DVOP specialists within a State be outstationed—that is stationed at locations other than local employment service offices. The Committee bill, however, would require that such waivers could be made on an individualized State-by-State basis only so long as the national percentage of DVOP specialists outstationed was not less than 20 percent. The Committee is sympathetic to concerns that in some areas a requirement that one-quarter of the DVOP specialists in a State be outstationed may be unworkable. However, the Committee remains convinced of the merit of outstationing DVOP specialists. This provision of the Committee bill would, therefore, permit flexibility within the States when it is necessary, but would also protect the worthwhile goal that DVOP specialists continue to carry out activities in locations such as Vet Centers, VA regional offices and medical centers, and other appropriate sites.

Fourth, the Committee bill would add a new responsibility to those presently enumerated for DVOP specialist. That new responsibility would involve the development of outreach programs—in cooperation with the VA's vocational rehabilitation staff, institutions of higher learning, and employers, in order to assure that maximum assistance is provided to service—connected disabled veterans who are enrolled in or who have completed programs of vocational rehabilitation training. In addition, the Committee notes that it expects DVOP specialists to continue to work closely with prime sponsors and other grantees under the Comprehensive Employment and Training Act and, in the event that other Federal employment and training legislation is enacted, with programs and grantees under such successor legislation.

Fifth, the Committee bill would make a series of non-substantive technical and conforming changes to the existing DVOP authority.

These changes would include the deletion of current subsection (d) of section 2003A that had been intended to provide for the transition of DVOP specialists from the program as previously conducted under the Comprehensive Employment and Training Act authority to the program as required to be conducted under the title 38 authority.

Finally, provisions of the Committee bill would require that the Secretary of Labor include in the annual report required to be submitted to the Congress a report on the activities under the DVOP authority. In addition, it would require that, in estimating the funds necessary for the proper and efficient administration of the Department of Labor's title 38 responsibilities, the Secretary, through the ASVE, include in the total estimate an amount sufficient to support the statutorily-mandated level of DVOP specialists. This total estimate is, as provided in current law, to be submitted as a special item in the annual budget for the Department of Labor.

Applicability of Chapter 42 Programs

The Committee bill, by amending the definitions applicable to chapter 42, would specify that the U.S. Postal Service and the Postal Rate Commission are subject to the requirements of that chapter. These requirements include those related to the affirmative action obligations and mandatory listing of jobs by Federal contractors in section 2012 and those related to the filing of affirmative action plans by Federal entities for hiring, placement, and advancement of disabled veterans in section 2014(c).

Reports of Contractors on Veterans' Employment Emphasis

Under existing law, Federal contractors doing business with the government in amounts of $10,000 or more, and subcontractors, are required to take affirmative action to employ and advance in employment qualified service-connected disabled veterans rated 30-percent or more disabled and Vietnam-era veterans. Until earlier this year, such contractors were required by regulation to file quarterly reports on their compliance with this provision. At that time, it was decided to delete the requirement for those quarterly reports as they posed a significant burden on employers. The Committee is concerned about unduly burdensome requirements imposed on employers. However, it is likewise concerned that some means of reporting on the activities required by section 2012 be maintained. Thus, the Committee bill would require such contractors to report annually. It is the Committee's intention that these annual reports be coordinated with annual reports such contractors are presently required to file with the Joint Reporting Committee (an Equal Employment Opportunity Commission-Department of Labor entity) on the composition of their labor force by ethnic group, sex, and job category. By coordinating these reports, the impact on the employer would be minimized.

Jurisdiction of Assistant Secretary of Labor for Veterans' Reemployment Rights

At present, jurisdiction for the authorities relating to reemployment rights for veterans lies within the Office of Veterans' Reemployment Rights in the Labor-Management Services Administration in the Department of Labor. The Committee bill would transfer to the Office of the ASVE the responsibility for the provision of assistance under this authority.

The Committee is proposing this transfer of responsibility in keeping with its belief that all programs affecting veterans should be centralized in one office within the Department of Labor. The Committee believes that such centralization enhances services to veterans and is consistent with the purposes for establishing an Assistant Secretary for Veterans' Employment to serve as the principal advisor to the Secretary on all matters relating to veterans' employment and training issues.

Repeal of the Exemplary Rehabilitation Certificates Program

Public Law 90-83 established a program known as the Exemplary Rehabilitation Certificates (ERC) Program. Under this authority, veterans who had received general or other than honorable discharges could earn an ERC. The Secretary of Labor may issue an ERC to a veteran if it is established that the individual has been rehabilitated and that the person's character, conduct, activities, and habits since discharge have been exemplary for at least a three-year period. The issuance of an ERC does not change the character of a discharge in any way, and thus does not provide eligibility for any new benefits, entitlements, or services otherwise denied because of discharge status.

From its inception in 1967 through calendar year 1981, 2,704 applications for ERC's have been received and 1,339 have been issued. In calendar year 1981, there were 78 ERC's issued. According to the Department of Labor, research has shown that certificate recipients have received few, if any, benefits in seeking and retaining employment as a result of the ERC; only 11 percent reported that the certificate helped them.

In response to the request from the Department of Labor asserting that the ERC program is administratively burdensome, the Committee bill would repeal the authority for the program. The Department advises that this would permit better utilization of one-half of a professional position and one-half of a clerical position and save about $5,000 a year in miscellaneous printing and supplies.

TITLE IV: MISCELLANEOUS IMPROVEMENTS

Expansion of Categories of Persons to Whom Life Insurance Proceeds May Be Assigned

Under current law, although the insured veteran may designate any person as a beneficiary, sections 718 and 753 of title 38 provide that only certain close relatives of the insured veteran may be assigned, by a beneficiary, an interest in the proceeds of a National

Service Life Insurance (NSLI) policy (section 718) or United States Government life insurance (USGLI) policy (section 753). For NSLI, the class includes the insured's spouse, children, parents, siblings, and grandparents. The class for USGLI assignment encompasses the same group and also extends to aunts and uncles, nephews and nieces, and brothers-in-law and sisters-in-law of the insured.

The current restrictions on assignments are administratively useful in cases where there is no question as to the designated beneficiary. The fact that a beneficiary may direct payment only to a close relative of the insured permits the use of a relatively simple administrative procedure for processing claims in those cases and helps to assure that the proceeds are paid directly to a person closely related to the deceased veteran.

Occasionally, however, in NSLI and USGLI cases, there is a contest between two or more persons as to the identity of the last designated beneficiary. Those contests may involve an individual to whom an assignment is not possible, such as a former spouse with custody of children of the veteran or a close friend.

A settlement of the dispute can occasionally be facilitated by cross-assignments of the policy proceeds by each claimant to the other, that is, by the claimants' agreement that each shall receive part of the proceeds. In such cases, the liability of the Federal Government is fully discharged. However, under current law, no assignments are lawful, as has been noted, unless the assignee is within the categories of family members of the insured veteran specified in sections 718 (NSLI) and 753 (USGLI). Thus, for example, when a dispute over proceeds results from the fact that the veteran exercised his or her right to change the beneficiary without notice to the prior beneficiary, and the last-named beneficiary concedes that the prior beneficiary should receive all or part of the proceeds, an assignment cannot be made, regardless of the merits of the claim or the wisdom of the proposed assignment, unless the prior beneficiary is a specified family member. The result is that litigation may ensue.

Section 401 of the Committee bill would provide for a limited expansion of the classes of persons to whom all or part of the proceeds of a NSLI or USGLI policy may be assigned.

Under this provision, such assignments could be made to certain other persons who are not within the classes of specified close relatives: Any person who was ever designated by the insured veteran as a beneficiary, any person with whom the insured veteran had contracted to designate as the beneficiary, and any person whom a court ordered the insured veteran to designate or retain as the beneficiary. In this way, an assignment would be authorized only to a person whose claim to the proceeds was based on one of the specified legal relationships with the veteran prior to the veteran's death. These requirements are designed to provide limited authority for assignments that would cover the common types of cases identified by the VA as involving disputes that could appropriately be resolved by assignments.

Under these provisions, in any case where the proceeds are to be paid other than in a lump sum, any such assignment must be joined in by the designated contingent beneficiary, if any, if the assignor is a person upon whose death or disqualification the contingent beneficiary's claim to the proceeds would be predicated. This would provide a further safeguard against the abuse of the power to assign and is similar to a provision in current law regarding assignments to specified members of the insured veteran's family.

Thus, these carefully limited provisions are intended to facilitate the resolution of disputes without opening the door to abuse of these VA insurance programs.

These provisions are similar to provisions passed by the Senate on August 6, 1980, as a part of Committee substitute S. 2649, and on August 3, 1979, as a part of H.R. 2282. They are also similar to the provisions contained in S. 2388, a bill introduced by the Chairman at the administration's request on April 15, 1982.

Removal of time restriction for filing insurance claims

Under current law, when a Servicemen's Group Life Insurance or Veterans' Group Life Insurance claim is not filed within 4 years of the insured's death, section 770(c) of title 38, United States Code, provides that the proceeds shall "escheat" to the SGLI revolving fund established under section 769(d) of title 38. The intention of this provision is unclear, especially when viewed in light of similar provisions dealing with other government insurance programs, including National Service Life Insurance (NSLI) and United States Government life insurance (USGLI).

Both NSLI and USGLI programs specifically prohibit the escheat of proceeds to a state. It appears that a similar prohibition was intended in section 770(c) concerning SGLI and VGLI policies. As written, however, section 770(c) also appears to bar payment of proceeds to otherwise entitled claimants whose claims are not filed within the four year period. It is unclear whether this bar was intended. No such bar exists under the NSLI or USGLI programs.

The VA has informed the Committee that, to date, no claims for SGLI or VGLI have been made beyond the four year period. Therefore, there have been no claims denied as a result of this language.

However, the Committee, in reporting this legislation, seeks to clarify section 770(c) to ensure that no claims are denied in the future for failure to file wthin 4 years of the death of the insured. In addition, the Committee seeks to make the escheat prohibition provision of the SGLI-VGLI program consistent with the NSLI and USGLI programs.

Burial Benefits For Certain Indigent Veterans of Wartime Service

Background

Last year, pursuant to the requirements in the first concurrent resolution on the budget for fiscal year 1982 that the House and the Senate Veterans' Affairs Committees recommend legislative savings totalling $110 million in fiscal year 1982 and slightly less in fiscal years 1983 and 1984, the Committees recommended certain limitations on the Veterans' Administration $300 burial benefit. Subsequently, the Congress approved legislative as part of the Omnibus Budget Reconciliation Act of 1981 (Public Law 97-35) to restrict eligibility for this burial allowance to veterans who at the time of death are in receipt of either VA compensation or VA non-service-connected disability pension. Previsously, this benefit was paid for any veteran who was entitled to compensation, who had been discharged from active service for a service-connected disability, or who had served during a period of war. This restriction was made effective with respect to deaths occurring after September 30, 1981. No restrictions were placed on either the $150 plot allowance or on the $1,100 burial benefit payable for a veteran who dies from a service-connected disability.

According to the Congressional Budget Office, cost-savings resulting from the enactment of this legislation were estimated to be $75.2 million in fiscal year 1982, $79.8 million in fiscal year 1983, and $84.4 million in fiscal year 1984. The Committees adopted this approach because it believed that it was preferable to make the bulk of the required savings by pruning this benefit—rather than benefits for living persons—in a manner that is consistent with the priorities placed on veterans with service-connected disabilities and needy veterans of wartime service.

The 1981 Senate-passed provision, upon which the provision contained in Public Law 97-35 was based in part, retained eligibility for wartime veterans who, even though not in receipt of pension, would have met the VA pension income standards. This eligibility for so-called "pension-income eligibles" was dropped in negotiations with the House because of the disproportionately high administrative cost that the VA stated would be associated with making income determinations retroactively. In fact, if this eligibility had been enacted, the VA advised that the total administrative costs for it would have exceeded the total amount of benefits paid on this basis since each claim filed for benefits on the grounds of an individual being pension-income eligible would have to be developed in spite of the fact that few were expected to be paid.

Committee Bill Provisions

The Committee is concerned by reports that there are a relatively small number of impoverished wartime veterans who are not in receipt of VA need-based pension and are thus ineligible for the burial benefit under existing law and who are at risk of a pauper's burial at local Government expense when they die. Based on data furnished by the VA, during the period October 1, 1981, through July 31, 1982, there were reported cases of 115 such veterans nationwide who died and for whom the burial benefits were not paid as a result of the provisions enacted last year.

The Committee does not believe that any destitute wartime veterans should be denied a decent funeral. The intent mirrored in the provisions enacted last year by preserving eligibility for VA pensions was to provide for those who are needy. With respect to those destitute wartime veterans who—for various reasons such as not meeting the total disability requirement, failure to meet the 90-day service requirement, or failure to make application—are not in receipt of VA need-based pension, the Committee believes that a cost-effective and compassionate approach to providing this benefit is possible.

Thus, section 403 of the Committee bill incorporates provisions derived from S. 2048, as introduced by Senator Cranston, which would amend chapter 23 of title 38 to provide that a deceased veteran of war would be deemed to have been in receipt of pension and consequently eligible for the $300 burial benefit if a State, county, or city certifies to the VA that no next of kin or other person has claimed the veteran's body, has assumed the responsibility for the burial and funeral expenses of the veteran, and that the amount of funds or resources available to it from other sources is insufficient to cover the burial and funeral expenses. In these cases, the State or political subdivision would be paid the lesser of the $300 or the cost of the burial and funeral expenses it actually incurred last year. In addition, the Committee bill would similarly restore benefits in the cases of peacetime veterans who had been discharged or released from active military, naval, or air service for a service-connected disability who are not in reciept of VA compensaton or military disability retirement.

It is important to stress that this provision, which does not restore benefits across-the-board and thus provide for the benefit of those who are not needy, addresses the problem of needy, destitute wartime veterans in an equitable and cost-effective manner. Unlike the pension-income eligible criteria described above, it avoids the administrative cost associated with the VA making determinations of deceased veterans' incomes since the VA would rely on State or local certifications regarding the deceased veteran. Thus, the provision in the Committee bill would help ensure at a minimum cost—estimated to be less than $1 million in any fiscal year—that VA burial benefits continue to serve the primary purpose for which they were enacted: the assurance that wartime veterans who served the Nation in its hours of need are finally laid to rest with the dignity they earned.

Guaranteed Loans to Refinance Liens on Manufactured Homes and to Purchase Manufactured Home Lots; Change in Nomenclature

Under existing law, veterans may use their VA home-loan guaranty benefits for the purchase of manufactured or mobile homes (herein after referred to as "manufactured homes"), the purchase of lots on which to place such homes, or to purchase simultaneously such homes and lots. In addition, a veteran may refinance an existing loan made, guaranteed, or insured by the VA under certain circumstances in order to obtain a more favorable rate of interest on a loan. However, unlike the VA home-loan guaranty program applicable to conventionally-built homes, veterans may not use their VA home-loan guaranty benefits to refinance existing, VA- or non-VA-guaranteed loans secured by a manufactured home except as provided for in the case of the refinancing of existing VA-loans in order to obtain a lower rate of interest.

The absence of a provision for the use of a VA-guaranteed-loan entitlement to refinance a loan secured by a mobile home has precluded veterans from using their guaranty entitlement in certain situations in which the Committee believes that such opportunity should be provided. For example, a veteran may have an existing loan on a manufactured home which is not guaranteed by the VA. That home may be, and often is, located on a lot which is rented, for example, in a mobile home park. The VA has advised the Committee that a significant number of rental mobile home parks are being converted into either a condominium or planned unit development form of ownership. When a park is so converted, the owners of the home units located within the park must either purchase the lots on which their units are located or move their units to a new location at their own expense.

Lenders are often unwilling to finance the purchase of such a lot—either a lot converted or a new lot—unless a full security interest in the manufactured home unit is provided to the lender. Under these circumstances, a veteran is usually precluded from using his or her VA home-loan entitlement to purchase a lot because current law does not generally permit refinancing of existing loans.

Thus, the provisions of sections 404 (a) and (b) of the Committee bill would amend title 38 in order to authorize the VA to guarantee loans for the purposes of simultaneously refinancing existing liens on a manufactured home and purchasing a lot on which to place such a home. Under the provisions of the Committee bill, the new VA-guaranteed loan would be required to be secured by the same manufactured home, occupied as the veterans' home, as the loan being refinanced. The amount of the new loan may not exceed an amount equal to the sum of the purchase price of the lot, any necessary site preparation costs, the balance of the loan being refinanced, and authorized closing costs. If the loan being refinanced was guaranteed, insured, or made by the VA, the amount of the new loan being applied to pay off the prior one would be guaranteed without regard to the amount of the veteran's remaining VA-home-loan guaranty entitlement, and the veteran entitlement would not be charged with respect to that portion of the new loan. Further, the Committee bill provisions would specify that there is no prohibition against the veteran paying a reasonable discount required by a lender when the proceeds of a loan are used for these simultaneous purposes.

In addition, section 404(c) of the Committee bill would make a series of nonsubstantive amendments to all relevant sections of chapter 37 of title 38 to change the term "mobile home" to "manufactured home" wherever it appears. The change is in name only and will bring the nomenclature of chapter 37 into conformity with the National Housing Act, as amended by section 308(c) of the Housing and Community Development Act of 1980 (Public Law 96-399). The Committee stresses that this change in nomenclature is not intended to expand or modify the coverage of section 1819 in any way, nor to make any other substantive changes.

Period for Request of Overpayment Waiver

Under current law an individual who has been notified of a Veterans' Administration overpayment or debt is allowed 2 years from the date of notification of such overpayment or debt to request a waiver of repayment. Authorization was originally given to the Administrator to grant waiver requests in order to avoid recovery of overpayments and debts when such recovery would be against equity and good conscience. The 2-year period was originally provided in order to give an individual who owes money to the VA the same amount of time to request a waiver as given to overpaid Federal employees. However, the VA has informed the Committee that in its efforts to address an increasingly critical overpayment problem it has been hampered by this 2-year period for waiver request.

The Committee strongly believes that provision should continue to be made to insure that in circumstances where recovery of the overpayment would be against equity and good conscience, an individual has sufficient opportunity to request a waiver. The Committee believes, however, that a period of 180 days is generally sufficient to accomplish this purpose.

Despite its belief that 180 days is sufficient time for an individual to file a request for waiver, the Committee is concerned that in rare instances an individual, through no fault of his or her own, may not receive timely notification of his or her indebtedness. Thus, the Committee has provided authority to the Administrator of Veterans' Affairs to waive the 180-day period requirement if the individual can demonstrate to the satisfaction of the Administrator that notification of an indebtedness was not actually received. The Committee stresses that in such instances the burden of demonstrating that notice of indebtedness was not received in a timely fashion rests with the individual. Thus the Committee's intention is not to require a costly notification process but rather to permit the Administrator, when circumstances warrant it, to extend the 180-day requirement.

Minimum Active-Duty Service Requirements for Benefits Eligibility

On September 7, 1980, section 977 of title 10, United States Code, was enacted—in the Department of Defense Authorization Act, 1981 (Public Law 96–342)—to establish a general 2-year minimum-service requirement for eligibility for any federal "benefit, right, or privilege" based on active-duty service for those who originally enter the service after September 7, 1980.

Last year, in section 604 of the Veterans' Disability Compensation, Housing, and Memorial Benefits Amendments of 1981, enacted on October 17, as Public Law 97–66, Congress enacted as section 3103A of title 38 a provision that superseded—by replacing and modifying—section 977 with respect to eligibility for all benefits under title 38 or under other laws administered by the Veterans' Administration.

In the House and Senate deliberations on the title 38 provision last year, three major problems in section 977 of title 10 (hereinafter referred to as "section 977") were identified and resolved in the title 38 provision with respect to title 38 and VA benefits.

First, section 977 applies only to enlisted personnel in the Armed Forces; it does not apply to military officers or to commissioned officers of the Public Health Service or the National Oceanic and Atmospheric Administration. With respect to title 38 and VA benefits, section 3103A of title 38 established a 2-year minimum-service requirement applicable to these officers as well as to enlisted personnel.

Second, section 977 made ineligible a 2-year enlistee who is discharged under section 1171 of title 10, which allows the Armed Forces to discharge a person from active service for the convenience of the Government up to 90 days prior to the expiration of that person's enlistment. The title 38 provision provided an exemption for those who receive such discharges.

Third, section 977 provided an exemption for those who have any service-connected disability, even those that are so minor as not to be rated even 10-percent disabling. The title 38 provision limited the exemption for those with service-connected disabilities to those who have compensable disabilities.

These changes with respect to title 38 and VA benefits, enacted in section 3103A of title 38, were designed to produce a fairer, more equitable minimum-service requirement.

However, in enacting in title 38 a replacement minimum-service requirement with these improvements, the Congress established one set of rules for title 38 benefits and other VA benefits while leaving in place the other set in section 977 for all other benefits provided under federal law based on active-duty service.

In order to provide for a more uniform set of rules, section 406 of the Committee bill, which is derived from Amendment No. 1909, submitted on June 30, 1982, by Senators Simpson and Cranston, would amend section 3103A of title 38 to provide a minimum-service requirement—superseding section 977 entirely—for federal benefits other than those that are provided under title 38 or administered by the VA, as well as for those that are. This provision of the Committee bill would parallel the policies in the existing title 38 provision and thus would make the same three major improvements, as discussed above, that the title 38 provision made last year in the rules governing title 38 and VA benefits eligibility.

The Committee bill would also make certain other clarifications and minor adjustments in the minimum-service requirement for non-VA/non-title 38 benefits. First, it would clarify, consistent with the Social Security Administration's interpretation of section 977, that the only Social Security Act benefit affected by the minimum-service requirement is that provided under section 229(a) of the Social Security Act, under which active-duty personnel are deemed to have been paid additional wages of $100 for each $300 of military pay, up to a maximum of $1,200 per year in deemed wages. "Earned" social security credits—those based on actual employment and wages and for which social security tax is paid—would be expressly exempted from the minimum-service requirement under the Committee bill.

Second, the Committee bill would clarify that the only civil service provisions affected by the minimum-service requirement are the so-called "veterans preference" provisions other than those for veterans with comparable, service-connected disabilities. It should be noted that those who entered the service after September 7, 1980, and have no service-connected disability do not qualify for veterans preference at the present time; they may qualify in the future only if they serve during a war or in a campaign or expedition for which a campaign badge is authorized. Thus, as with the minimum-service requirement in section 977, the Committee bill would affect non-disabled veterans only in the event of some future outbreak of hostilities involving the United States Armed Forces.

With respect to the calculation of length of federal service for purposes of retirement credits and the rate at which annual leave is accrued, the Committee bill would specify that active-duty personnel would not be barred by the minimum-service requirement from receiving credit for any period of time actually served on active duty.

The minimum-service requirement proposed in the Committee bill would expressly exclude unemployment compensation for ex-servicemembers (UCX) from the scope of the minimum-service requirement. The UCX provisions, set forth in subchapter II of chapter 85 of title 5, United States Code, contain a specific minimum-service requirement that has been amended twice in the past 2 years—in section 415 of Public Law 96-364 and section 2405 of Public Law 97-35—and a further amendment is pending in a House-Senate conference on H.R. 4717, a bill that relates to a variety of matters within the jurisdiction of the Finance Committee. In view of this very recent and continuing Congressional focus specifically on the UCX minimum-service requirement, the Committee believes that it is preferable at this point for the issues related to that requirement to be addressed in legislation specifically dealing with that benefit. Thus, the Committee bill specifically excludes application of the proposed title 38 provision to the UCX program.

In preparation for the Committee's August meeting to consider the provisions of the Committee bill, the Chairman wrote to the agencies that the Committee understood to be administering programs under which veterans have, in the terms of section 977, a "benefit, right, or privilege" to obtain information regarding the agencies' application of section 977 and their comments on Amendment No. 1909.

In response, the Secretary of Health and Human Services stated in an August 19 letter:

> Since the deemed military wage credits authorized by the Social Security Act are the only benefits administered by the Department [of Health and Human Services] that are now affected by the minimum service requirement [in section 977], we would have no objection to the adoption of Amendment No. 1909 insofar as it directly affects this Department.

In an August 6 response, the Secretary of Defense stated:

> The Department of Defense administers benefits programs for active and retired personnel and their dependents. Personnel who are discharged or who have otherwise severed their service connections are not the intended beneficiaries of these programs. Accordingly, the Department does not administer benefits to which section 977 of title 10 applies. . . .
>
> For the reasons stated above, the Department of Defense has no objection to Amendment No. 1909. . . .

The Director of the Office of Personnel Management, in an August 18 letter responding to the Chairman's request regarding the OPM interpretation of section 977, stated with respect to veterans preference:

> OPM's General Counsel has determined that title 5, rather than title 10, governs the application of veterans' preference in Federal employment. Veterans' preference is

> a provision of law which governs Federal employment. Accordingly, it is not in the same category as the broad range of programs, services, and benefits that the VA administers under titles 10 and 38 such as death benefits, hospitalizations or pensions. Veterans' preference is a separate body of law with its own history and eligibility requirements and is codified in title 5, United States Code, rather than in titles 10 or 38, United States Code. Essentially, this is because veterans' preference provisions are different from the veteran entitlement provisions in titles 38 and 10, U.S.C.

The Committee is unable to discern the basis for the OPM General Counsel's view that secton 977 of title 10 has no applicability to veterans' preference provisions in title 5. By its terms, section 977 requires the denial of eligibility "for any right, privilege, or benefit . . . under any Federal program" by reason of active-duty service in the cases of those who originally enlist after September 7, 1980. It is clear to the Committee that this provision was intended to apply to non-title 10 programs. Indeed, as the Department of Defense has advised and contrary to the implication in the OPM letter, there are no title 10 programs within the ambit of section 977. Thus, if the applicability of section 977 were limited to title 10 programs, it would have been a nullity—clearly not what the Congress had intended. Moreover, the Department of Health and Human Services applies section 977 to a Social Security Act benefit.

With respect to the implication in the OPM letter that section 977 has some applicability outside title 10, that is, to title 38 programs, the Committee is unable to comprehend the OPM General Counsel's position that section 977 has an impact on title 38 programs but not on title 5 programs. In the Committee's view, the term "any right, privilege, or benefit . . . under any Federal program" covers the preference provisions in title 5 as clearly as it does the range of benefits provided under title 38.

In order to gain a fuller understanding of the OPM position regarding the applicability of secton 977, on August 18, Committee staff requested OPM staff and OPM staff agreed to provide an OPM General Counsel opinion on this question. To date, none has been received.

Under these circumstances, the Committee, taking into account the breadth of the language in section 977, is of the view that that provision does apply to the preference provisions of title 5.

With respect to the merits of Amendment No. 1909, the Director of OPM stated:

> This amendment would provide a two year military service requirement for veterans' preference eligibility in Federal employment. Current law does not have a minimum service requirement for eligibility for veterans' preference. Thus, the amendment limits the number of veterans who would be eligible for preference. OPM is opposed to this limitation on eligibility for veterans' preference. We therefore, propose that the veterans' preference provision in the 1909 amendment to S. 2378 be deleted, and that no limita-

tions be placed on current eligibility requirements for veterans' preference.

Since the OPM position on Amendment No. 1909 is premised on its view that current law does not impose a minimum-service requirement on veterans' preference eligibility—a view for which the Committee has been offered no legal support or analysis—the Committee is unable to give substantial weight to the OPM objections to the provisions of Amendment No. 1909. Rather, the Committee considers it advisable for the Congress to enact a provision to clarify the extent to which a 2-year minimum service requirement is applicable to title 5—as the Committee bill would, by expressly making the requirement applicable only to preference—and to make the same policy adjustments in the requirement as applied to the preference provisions of title 5 as were made last year in the requirement as applied to benefits under title 38 and under other laws administered by the VA.

The Commissioner of the Immigration and Naturalization Service in a July 20 letter—noting provisions of the Immigration and Nationality Act (INA) (sections 328 and 329 of the INA, 8 U.S.C. 1439 and 1440) that provide for certain naturalization benefits (including waiver of the length-of-residency requirement) based on service in the Armed Forces—stated that "it appears that amendment would have no impact or effect on [these] sections of the [INA]." This response seemingly failed to take into account the situations in which the provisions of section 977—and hence Amendment No. 1909—would require that non-citizen veterans who fail to satisfy the minimum-service requirement be denied the benefit of INA sections 328 and 329. Thus, on September 8, the Chairman wrote to the Commissioner to request clarifiction on that point; no response has yet been received.

The following is the September 8 letter from the Chairman to the Commissioner:

ALAN K. SIMPSON, WYO., CHAIRMAN
STROM THURMOND, S.C. | ALAN CRANSTON, CALIF.
ROBERT T. STAFFORD, VT. | JENNINGS RANDOLPH, W. VA.
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ARLEN SPECTER, PA.

THOMAS E. HARVEY
CHIEF COUNSEL AND STAFF DIRECTOR

United States Senate
COMMITTEE ON VETERANS' AFFAIRS
WASHINGTON, D.C. 20510

September 8, 1982

Honorable Alan C. Nelson
Commissioner
Immigration and Naturalization Service
Department of Justice
Washington, D. C. 20536

Dear Al:

Thank you for your response to my request for comments on Amendment No. 1909 to S. 2378.

Your letter indicated that, in your view, this amendment will have no impact or effect on the provisions of the Immigration and Nationality Act (INA) -- sections 328 and 329, (8 U.S.C. §§1439 and 1440, respectively) -- those related to immigration and naturalization benefits based on service in the Armed Forces of the United States. Your response did not directly address the question that I had asked regarding the applicability of present section 977 of title 10, United States Code, to those benefits.

Upon review of your response, I believe that certain clarifications are necessary with respect to the effects of section 977 of title 10 on the eligibility for such naturalization benefits of those to whom that section applies.

First, INA section 328 provides for the waiver of the residency requirement for one who has served in the Armed Forces at any time for a period or periods aggregating three years, and it is my understanding that that three-year service requirement has been interpreted as including periods of reserve status. Thus, it would appear that, in certain instances of individuals who originally enlist in a regular component of the Armed Forces after September 7, 1980, they may satisfy the requirement of INA section 328 through a combination of active duty and reserve status but, upon failing to complete 24 months of their enlistments, be subject to the bar to benefits set forth in section 977 of title 10. In such cases, would not section 977 preclude eligibility for the INA section 328 benefits?

Second, under INA section 329, it is my understanding that age and residency requirements are generally to be waived for individuals who serve in an active-duty status during any future period that the President by Executive Order designates as a period in which the Armed Forces of the United States are engaged in certain military operations involving armed conflict and who, if separated from such service, are separated under honorable conditions. In the cases of individuals to whom section 977 applies, who are separated under honorable conditions, but who fail to meet that section's 24-month service requirement, would not section 977 preclude eligibility for the section 329 benefit?

If your answer to either of the foregoing questions regarding the application of section 977 of title 10 is that its provisions would preclude eligibility for naturalization benefits under INA section 328 or 329, I would appreciate your reconsidering your position on the effects that the provisions of Amendment No. 1909 would have on section 328 and 329 benefit eligibilities and providing me with your further comments on the provisions of the amendment.

In light of the fact that the Committee is planning to file its report on legislation incorporating the provisions of Amendment No. 1909 by September 17, I ask that you make every effort to expedite your response to this letter.

As always, I greatly appreciate your cooperation.

With warm personal regards,

Sincerely,

Alan K. Simpson
Chairman

AKS/bng

In the Committee's view, the section 977 minimum-service requirement should apply to benefits under INA sections 328 and 329 and hence intends that section 406 of the Committee bill be so construed.

In an August 18, 1982, response, the Administrator of the Small Business Administration, an agency required by section 4(b)(1) of the Small Business Act (15 U.S.C. § 633(b)(1)) to give "special consideration to veterans and their survivors and dependents" in carrying out its programs, generally SBA-guaranteed loans and certain advice and advocacy services, noted that the SBA "affords veterans a preference in the processing of applications for participation in existing programs." But, the Administrator stated:

> At this time, however, no one becomes eligible for any SBA program solely by reason of serving on active duty in the Armed Forces. Therefore, the proposed amendment would not affect the SBA or the applicants to or participants in SBA programs.

The SBA analysis did not expressly address the issue whether the "special consideration" to which veterans are entitled from SBA is considered a "right, benefit, or privilege" under section 977 or Amendment No. 1909. Committee staff contacted the SBA Legislative Counsel's Office for clarification and received advice that such special consideration was not so regarded.

In the Committee's view, the entitlement to such special consideration is a significant benefit based on service to the Nation and should be made subject to the minimum-service requirement. Thus, the Committee bill would expressly so provide.

The Farmers Home Administration—which provides credit assistance and management advice for the improvement and operation of farms and is required, under section 507 of the Housing Act of 1949 (42 U.S.C. § 1477), to give wartime veterans and certain survivors a preference ahead of others applying for assistance—provided an August 19 response, stating that Amendment No. 1009 "would have no bearing on programs administered by the Farmers Home Administration."

As in the case of the SBA "special consideration" provision, the Committee is of the view that a wartime veteran's entitlement to a preference for Farmers Home Administration loan processing is a valuable benefit based on military service and should be made subject to the minimum-service requirement. Thus, the Committee bill would expressly so provide with respect to veterans of a future period of war.

The Department of Housing and Urban Development has not yet responded to the Chairman's request for views on Amendment No. 1909. The Department's Office of General Counsel did, however, provide information indicating that the only HUD programs that are affected by section 977 and would be affected by Amendment No. 1909 are the HUD mortgage insurance programs, under the National Housing Act (12 U.S.C. §§ 1701 *et seq.*), which provide for a higher loan-to-value ratio and lower downpayment for veterans purchasing or rehabilitating a home using a HUD-insured mortgage.

The minimum-service requirement proposed in the Committee bill would supersede section 977 with respect to eligibility for the above special veterans' provisions in the HUD mortgage insurance programs.

The Department of Labor has also not yet responded. However, it is the Committee's understanding that the majority of the Department's programs under which veterans are provided with benefits based on active-duty service are established in chapters 41, 42, and 43 of title 38, relating to veterans' job counseling and training, employment services, and remployment rights. These programs are already subject to the minimum-service requirement enacted last year as section 3103A of title 38, because that section applies to non-VA programs under title 38 as well as programs administered by the VA under title 38 and other provisions of law. Thus, the Committee bill would simply provide for the coverage under the proposed minimum-service requirement of any Labor Department non-title 38 programs providing benefits, other than UCX, based on active-duty service.

The full text of the agencies' reported on Amendment No. 1909 are set forth later on this report under the heading "AGENCY REPORTS".

Finally, the Committee notes that the Committee will be also provide—as did the minimum-service provision enacted last year as section 3103A of title 38 with respect to title 38 benefits and other VA benefits—that a veteran's dependent or survivor claiming a dependent's or survivor's benefit based upon the veteran's service would not be entitled to such benefit where the veteran would be denied benefits because of having failed to satisfy the minimum-service requirement. Thus, for example, as follows from the preceding discussion pertaining to SBA and civil service benefits, the survivors or dependents of a veteran who would be made ineligible for special consideration from the SBA would also be made ineligible for special consideration, and the surviving spouse of a veteran who failed to satisfy the minimum-service requirement would be made ineligible for preference in Federal employment.

Correspondence Training

The issues of terminating or reducing correspondence training benefits under the GI Bill have been the subject of Congressional action on a number of occasions over the past year. In the first session of the present Congress, section 2004 of the Omnibus Budget Reconciliation Act of 1981, Public Law 97-35, reduced from 70 percent to 55 percent the portion of correspondence training costs that the VA pays. Subsequently, a proviso, which originated in the House Appropriations Committee, was enacted in the HUD-Independent Agencies Appropriations Act for fiscal year 1982, Public Law 97-101, stating that all funding would be eliminated for those benefits except with respect to individuals already pursuing correspondence training as of September 30, 1981. In response to this proviso, section 5(a) of Public Law 97-174, the Veterans' Administration and Department of Defense Health Resources Sharing and Emergency Operations Act, provided that, "except as may be provided by a provision of law enacted in express limitation" of the provision (section 1783(a)(1)) of title 38 creating such entitlement, funds in the VA's readjustment benefits account (from which GI Bill and certain other benefits are paid) shall be available for the payment of correspondence training benefits. Thus, upon the enactment of Public Law 97-174 on May 4, 1982, the appropriations proviso was nullified

This year again, the HUD-Independent Agencies Appropriatons bill for fiscal year 1983, H.R. 6956, as passed by the House on September 15, 1982, contains a limitation on funding for correspondence training, in language which purports to be in express limitation of the relevant provisions of title 38. The Senate Appropriations Committee struck this provision in reporting that bill on September 16, 1982.

After the House Appropriations Committee had reported H.R. 6956, but prior to its passage by the House, correspondence training was considered by the authorizing committees in the context of reconciliation legislation, which was enacted on September 8, 1982, as Public Law 97-253. The original House-passed version of that measure had contained a provision to terminate correspondence training benefits under the GI Bill, but the House-Senate conferees on that measure—senior members of the authorizing committees—specifically decided not to restrict or terminate correspondence training and the House receded from its provision.

Section 408 of the Committee bill would provide that funds in the VA's readjustment benefits account shall remain available for correspondence training unless a restriction on their availability is enacted by means of an amendment to section 1786(a)(3) of title 38 in a reconciliation bill.

The Committee feels strongly that a veterans' entitlement, such as the VA correspondence training benefit, should not be terminated or reduced through appropriations action that purports to withhold the availabilaity of funds for the payment of such entitlements. Rather, substantive program changes, if they are to be made, should originate in the authorizing committees within whose jurisdiction the program falls and should be accomplished only through measures within the authorizing committee's jurisdiction. In this case, as noted earlier, the authorizing committees specifically rejected termination of cor-espndence training benefits in the agreement reached on reconciliation legislation that was incorporated in the conference report (H.R. Report No. 97-759) on H.R. 6956.

In support of the purpose of this provision of the Committee bill to prevent veterans' entitlements to correspndence training benefits from being terminated through the appropriations process, section 501(f) of the Committee bill would provide that section 408 of the Committee bill would take effect on the day after the effective date of any law that is enacted after August 19, 1982, and which the Administrator determines to be inconsistent with the provisions of section 408. Section 501(f) is thus designed to render a nullity any provision of law, other than reconciliation legislation, that would purport to restrict the availability of readjustment benefits account funds for the payment of correspondence training benefits under the GI Bill.

Limitations on Contracting Out

Background

Under Office of Management and Budget Circular A-76, Federal Government agencies are required to contract with the private sector for the performance of certain commercial and industrial type activities where substantial savings to the government would result. The policy of government reliance on the private sector was first formally expressed by the Executive Branch in 1955. Circular A-76 was first issued in 1966, and was most recently revised in 1979. Further potential revisions are presently under review within OMB.

In response to considerable concern in the veteran community and among members of the Senate about how Circular A-76 would be applied within the VA's Department of Medicine and Surgery and the effect that it would have on the provision of health care services at VA facilities, the Committee held a hearing on November 5, 1981, to explore both sides of the issue. Testimony was received from VA officials representing the Office of the Administrator, the Department of Medicine and Surgery, and the General Counsel's office, as well as representatives from OMB, the Air Force (which has had some experience in contracting out in its medical facilities), GAO, various national veterans' organizations, Federal employee unions, and private sector contractors, and from the directors of two VA medical centers. Among the matters under consideration was a VA General Counsel opinion directed to the Chief Medical Director dated March 21, 1980, relating to the application of A-76 to functions carried out by DM&S. In that opinion, which was reprinted in the record of the Committee's November 5, 1981, hearing beginning at page 33, the General Counsel concluded that the basic medical care operations of DM&S are governmental functions and, as such, are exempted from coverage under A-76. As to other support activities within DM&S that are not directly related to patient care, the General Counsel concluded that such activities could be subject to the Circular. General maintenance, grounds care, and laundry service were cited as examples of functions which were not basic medical care operations and to which A-76 would apply.

In response to a concern raised at the hearing—that the preliminary studies mandated by A-76 comparing the cost of contracting out to the cost of in-house performance by Government employees could by themselves require as much as $29 million of DM&S funding to be diverted from other DM&S functions—the Committee approved a provision relating to funding for such cost comparison studies. This provision, now enacted in Public Law 97-66 as section 5010(a)(5) of title 38, specifies that funds from the various VA medical care accounts may not be used to conduct such cost comparison studies unless they have been appropriated specifically for that purpose.

On August 13, 1982, the Director of OMB notified the Committee of a possible revision to A-76 that would address concerns that had been expressed at the hearing about direct patient care. The letter stated in part:

Accordingly, and to allay any apprehension that the Administration encourages contracting out of VA direct patient care services, we have included in the proposed revision to OMB Circular No. A-76 a provision stating that commercial activities performed at hospitals operated by the Government shall be retained in-house if the agency's chief medical director determines that in-house performance would be in the best interests of patient care.

Committee Bill Provisions

Section 409 of the Committee bill would provide that, except with regard to certain existing contract authority under title 38, no contracting out that could result in the conversion of a DM&S activity from one performed by a government employee to one performed by an employee of a contractor could take place unless, first, the Chief Medical Director determines that the activity in question is not a direct patient care activity or an activity incident to direct care; and, second, the Administrator determines that the contract in question would reduce the cost of that activity by at least 10 percent and would not reduce the quantity or quality of health-care services available at the medical center involved. For cost comparison purposes, the cost of performance by government employees would be based on an estimate of the most efficient and cost-effective organization for effective in-house performance, and the cost of conducting the cost comparison study itself would be added to the cost of the contract in computing the 10 percent differential. The Committee intends that the cost data used in the comparison should be derived insofar as possible from actual VA experience and that the factors applied be firmly drawn so as not to favor either contracting out or in-house performance of the activity in question.

The Committee's overriding concern in formulating this provision was that no purely cost-savings initiative should be permitted to interfere with the provision by the VA of quality direct health-care services to eligible veterans, and that care should be taken to insure that there will be no possibility that any contracting out that is undertaken will have any adverse effect, either directly or indirectly, on patient care. At the same time, the Committee believes that the entire Federal government—including the Veterans' Administration—should be run in the most cost-effective and least wasteful manner that is consistent with the accomplishment of important governmental objectives, such as the provision of quality health care for our Nation's veterans through the hospitals, domiciliaries, and nursing homes administered by the Department of Medicine and Surgery (DM&S's functions are specificially set forth in section 4101 of title 38). These two concerns would be expressed as freestanding findings outside of title 38 in subsection (a) of section 409 of the Committee bill.

The Committee recognizes that these concerns are not inconsistent with the Policy underlaying A-76—i.e., that the pursuit of the most economical means of performance through contracting out does not extend to functions which are so intimately related to the public interest as to mandate performance by Federal employees.

The Committee also appreciates that OMB has been responsive to the Committee's concerns about maintaining the quality of VA health care. The Committee supports OMB's decision in connection with its formulation of the upcoming revision of circular A-76 to give the Chief Medical Director the authority to determine which functions are so closely related to patient care that they should not be contracted out.

Nevertheless, the Committee is of the opinion that the tremendous degree of public concern that has been generated concerning the application of A-76 to DM&S can be adequately satisfied only through legislative action rather than through periodic executive branch action. Since the basic authority to provide health care at Va facilities is conferred by statue, in chapter 17 of title 38, and the Chief Medical Director is charged by statute, in section 4103(1), with responsibility for all operations of DM&S, the Committee believes that the decision whether a particular activity relates to the statutory direct patient-care function of DM&S and thus should be performed exclusively by DM&S employees, is a decision particularly within the competence of the Chief Medical Director and should specifically be committed thereto by statute.

COST ESTIMATE

In compliance with paragraph 11(a) of rule XXVI of the Standing Rules of the Senate, the Committee, based on information supplied by the Congressional Budget Office, estimates that the costs resulting from the enactment of the Committee bill during the first 5 years following enactment would be $636.3 million in fiscal year 1983; $772.1 million in fiscal year 1984; $729.7 million in fiscal year 1985; $713 million in fiscal year 1986; and $720.9 million in fiscal year 1987. A detailed breakdown of the costs, as estimated by CBO, over the 5-year period follows:

CONGRESSIONAL BUDGET OFFICE

COST ESTIMATE

1. BILL NUMBER: S. 2913.

2. BILL TITLE:

   Veterans' Compensation, Education, and Employment Amendments of 1982.

3. BILL STATUS:

   As ordered reported by the Senate Committee on Veterans' Affairs, August 19, 1982.

4. BILL PURPOSE:

   To increase the rates of disability compensation and of dependency and indemnity compensation, to make adjustments and improvements in the education and vocational rehabilitation programs administered by the Veterans' Administration (VA) and the veterans' employment programs administered by the Department of Labor, and for other purposes.

5. COST ESTIMATE:

(by fiscal year, in millions of dollars)

	1983	1984	1985	1986	1987
Budget Authority	689.6	773.2	730.3	713.7	721.6
Outlays	636.3	772.1	729.7	713.0	720.9

The cost of this bill would fall in budget function 700.

6. BASIS FOR ESTIMATE:

   The following section-by-section cost analysis only addresses those sections of the bill that would be expected to have a budgetary impact.

   Certain sections of this bill would result in additional future federal liabilities through extensions of existing entitlements and would require subsequent appropriations action to provide the necessary budget authority. The figures shown as "Required Budget Authority" represent an estimate of the additional budget authority needed to cover the estimated outlays that would result from enactment of those provisions.

Section I

Sections 101-106: These sections would increase the monthly rates payable under disability compensation and dependency and indemnity compensation by 7.4 percent, except that, in calculating the new rates, all amounts less than $1 were rounded to the next lower dollar. This increase would be effective October 1, 1982.

(by fiscal year, in millions of dollars)

	1983	1984	1985	1986	1987
Required Budget Authority	689.9	700.2	707.0	716.0	724.3
Estimated Outlays	636.6	699.7	706.4	715.3	723.6

The cost of these sections was estimated by first calculating the cost of a full 7.4 percent increase under normal rules of rounding (i.e., all amounts greater than $.50 rounded to the next higher dollar). This was achieved by multiplying the projected average cost in each year for all disability compensation and for all DIC cases by 7.4 percent, then multiplying the resulting average increase in cost per year for each program by the estimated number of cases in the program each year.

It was then determined which payment categories would receive $1 per month less under the new rounding procedure than they would have received under normal rounding rules. The number of cases in each of these categories was then multiplied by 12 payments per year to estimate the savings that would result from these cost reduction measures. The cost of a full 7.4 percent increase was reduced by these savings.

Section 110: This section would increase the amount of compensation payable to certain blinded veterans.

According to VA information, there are only about 2,500 veterans suffering from service-connected blindness in both eyes. Since this provision would only affect a portion of these veterans, it is not expected to result in a significant cost.

Title II

Section 201: This section would authorize the Administrator of the Veterans' Affairs to hire and assign veterans' representatives (Vet Reps) to educational institutions and other appropriate locations as deemed necessary. Under current law Vet Reps are to be assigned according to a formula based on the number of trainees in the various VA education programs. This section would take effect October 1, 1982.

Since there are currently only five Vet Reps working in the Outreach Services program, the budgetary impact of this provision is not expected to be significant.

Section 202: This section relates to the payment of subsistence allowances to veterans in training under chapter 31 (title 38, U.S.C.) who are residing in halfway houses or participating in work-release programs in connection with the conviction of a felony. The amendment would eliminate the requirement of the Administrator to verify that the veteran is paying some portion of his/her own living expenses prior to approving the payment of the subsistence allowance.

This section would result in the payment of subsistence allowances to some individuals who would not be eligible to receive them under current law. However, the number of such cases would be small, and the resulting increase in benefit cost should be fully offset by the savings in administrative costs from the elimination of the verification process.

Section 204: Under current law, authority to pay educational assistance benefits under chapter 34 (title 38, U.S.C.) expires after December 31, 1989. This section would eliminate that expiration date and allow veterans meeting all other eligibility criteria to utilize their benefits at any time within their delimiting period of ten years from their date of discharge from service. Subsection (b) of section 204, however would mandate that the Secretary of Defense reimburse the Administrator for all benefits paid under chapter 34 after December 31, 1989.

	(by fiscal year, in millions of dollars)				
	1983	1984	1985	1986	1987
Required Budget Authority	-0.3	-1.0	-1.7	-2.3	-2.7
Estimated Outlays	-0.3	-1.0	-1.7	-2.3	-2.7

The analysis of this section indicates that the removal of the 1989 termination date would result in a modest reduction in the use of G.I. Bill benefits prior to 1989 that would be far outweighed by the newly authorized utilization after 1989. The cumulative reduction in outlays between 1983 and 1989 is estimated at approximately $14 million and corresponds to a post-1989 increase in outlays of about $725 million.

The near-term savings are relatively low because the 1989 termination date is expected to have only a small impact on separations of military personnel eligible for the G.I. Bill. This analysis rests on the premise that career service members' retention depends on their valuation of anticipated future benefits. In evaluating future benefits, CBO's methodology adjusts for the lower value that people place on deferred income in comparison to current income. Since the current law termination date eliminates the anticipated future benefits of post-1989 use of the G.I. Bill, it should decrease the likelihood that members will reenlist. Reenlistment bonuses and potential retirement benefits, however, would far outweigh the loss of education benefits for many servicemembers. Thus, it is estimated that only about 1,300 servicemembers would remain in the service as a result of this provision who would otherwise have separated. However, if the termination date is removed, many veterans would be expected to use their benefits after 1989 who would not have left the service prior to 1989 in order to do so.

Section 208: This section would extend by one year the delimiting period for the receipt of chapter 34 (title 38, U.S.C.) educational assistance benefits. This extension applies to Vietnam-era veterans pursuing a program of on the job training, secondary education, or a program of education with a vocational objective. The veteran would be allowed to use his unused entitlement to train unless the Veteran's Administration determines, on the basis of his employment and training history, that the veteran does not need the program to obtain a reasonably stable employment situation.

	(by fiscal year, in millions of dollars)				
	1983	1984	1985	1986	1987
Required Budget Authority	---	74.0	25.0	---	---
Outlays	---	74.0	25.0	---	---

This estimate assumes that approximately 41,000 veterans would receive training as a result of the extension to December 31, 1984 of the delimiting date. It is assumed that the requirement of a review of the veterans employment and training history in relation to the proposed course or training will not have significant impact on the number of new trainees.

Section 209: This section would extend the delimiting period, for the purpose of education benefits under chapter 31, 34 and 35, for veterans who were unable to utilize their benefits because of alcohol or drug dependence.

According to VA sources, this provision would not affect a large enough number of individuals to result in a significant cost.

Title III - This title would make a number of technical and procedural amendments in federal programs of employment assistance for veterans. The provisions, however, would not affect the total amount authorized to be appropriated for any program. Therefore, no additional cost to the government would be expected to ensue from their enactment.

Title IV

Section 403: This section would authorize the Administrator to reimburse a state or other political jurisdiction for the burial expenses of a veteran whose remains are unclaimed.

According to an informal telephone survey conducted by VA of all their regional offices, the number of deceased veterans whose remains are unclaimed each year is quite small. It is expected that less than 100 claims for reimbursement would be made under this provision in any year. The cost of the provision, therefore, would not be significant.

Section 404: This section would authorize the Administrator to guaranty loans used to refinance existing loans on manufactured homes.

Since the purpose of refinancing a mortgage is to obtain terms more favorable to the borrower, the provision could enable some veterans to avoid default on their VA-insured loans. The provision would, therefore, tend to reduce costs to the Loan Guaranty Revolving Fund, but the amount of reduction is not expected to be significant.

7. ESTIMATE COMPARISON: None.

8. PREVIOUS CBO ESTIMATE:

Section 405 of Public Law 97-253, the Omnibus Reconciliation Act of 1982, provided for reductions in various current compensation and DIC benefit rates to be effective January 1, 1983. This was done in anticipation of the enactment prior to that date of a cost-of-living increase in these programs which would reflect certain cost reducing adjustments. The rate increase provided by sections 101-106 of this bill contains the anticipated adjustments, which would yield the following savings from the cost of a full 7.4 percent rate increase:

(by fiscal year, in millions of dollars)

	1983	1984	1985	1986	1987
Required Budget Authority	-16.8	-17.0	-17.3	-17.5	-17.8
Estimated Outlays	-16.8	-17.0	-17.3	-17.5	-17.8

9. ESTIMATE PREPARED BY: Nina Shepherd, Kelly Lukins (226-2820)
Neil Singer (226-2903)

10. ESTIMATE APPROVED BY:

C. G. Nuckols

James L. Blum
Assistant Director
for Budget Analysis

REGULATORY IMPACT STATEMENT

In compliance with paragraph 5 of rule XXIX of the Standing Rules of the Senate, the Committee on Veterans' Affairs has made an evaluation of the regulatory impact which would be incurred in carrying out the Committee bill. The results of that evaluation are described below.

The Committe bill has five titles: I—Compensation and dependency and indemnity compensation rate increases and program improvements: II—Amendments of veterans' education and rehabilitation programs; III—Veterans' employment amendments; IV—Miscellaneous improvements; and V—Effective dates.

A. *Estimates of the numbers of individuals and businesses who would be regulated, and a determination of the groups and classes of such individuals and businesses:*

Title I.—Title I, which provides for rate increases, improvements, and minor modifications in the service-connected disability compensation and dependency and indemnity compensation programs, would not result in the regulation of any individuals or businesses.

Title II.—Title II, which would make a series of improvements and modifications in programs of educational assistance and vocational rehabilitation for veterans and eligible persons, would not result in the regulation of any individuals and businesses.

Title III.—Title III, which would make a series of improvements and modifications in veterans' employment programs, would not result in the regulation of any individuals or businesses.

Title IV.—Title IV, which would make a series of miscellaneous improvements in a variety of veterans' benefits and programs, would not result in the regulation of any individuals or businesses.

B. *Determination of the economic impact of such regulations on individuals, consumers and businesses affected:* Since, as previously indicated, there would be no such regulations, there would be no such impact.

C. *Determination of the impact on the personal privacy of the individual affected:* The enactment of the Committee bill would not increase any impact on the personal privacy of any individuals, except that those who would apply under the amendments proposed in section 209 of the Committee bill for extensions of their periods of eligibility for educational assistance and vocational rehabilitation on the grounds of an alcohol or drug condition that prevented them from pursuing training would be required, in applying for such extensions, to provide information regarding such conditions and their participation in treatment or rehabilitation for those conditions.

D. *Determination of the amount of additional paperwork that will result from regulations to be promulgated under the bill:* No regulation that would result in any significant amount of additional paperwork is expected to be promulgated under the provisions of the Committee bill except with respect to section 308 of title III. Under that section, certain Federal contractors would be required to file annual reports on their efforts to hire and promote certain disabled and Vietnam-era veterans. Such contractors had previously been required. by regulation, to file such reports quarterly. In addition, the Committee notes that under title II (section 205) existing paperwork requirements would be reduced by virtue of the repeal of the requirement for the submission of reports on compliance with the so-called 50-percent employment rule.

SECTION-BY-SECTION ANALYSIS OF S. 2913 AS REPORTED

Section 1

Subsection (a) of section 1 would provide that this Act may be cited as the "Veterans' Compensation, Education, and Employment Amendments of 1982".

Subsection (b) of section 1 would provide that, except as otherwise specifically provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

TITLE I—COMPENSATION AND DEPENDENCY AND INDEMNITY COMPENSATION RATE INCREASES AND PROGRAM IMPROVEMENTS

Part A—Increases in rates of compensation

Sections 101 through 106 would establish monthly compensation and DIC rates which reflect the cost saving of rounding down monthly payments to the nearest dollar. This policy for achieving cost savings was established by the "Omnibus Reconciliation Act of 1982" at section 404 and 405.

Section 101

Would amend present section 314 of title 38, relating to the rates of service-connected disability compensation.

Subsection (a) of section 101 would amend subsections (a) through (j) of present section 314 to increase by 7.4 percent the basic monthly rates of compensation paid to veterans with disability rated from 10 to 100 percent. In computing these rates, the Committee bill would round down all amounts of $0.99 or less to the next lower dollar. Currently, a veteran with a 10-percent disability receives $58 monthly, and a veteran with a disability rated as total—100 percent—receives $1,130 monthly. Those rates would be increased to $62 and $1,213, respectively, by the Committee bill, and the rates for disabilities rated 20 to 90 percent would be increased by the same percentage. The Committee bill would also increase by 7.4 percent the higher monthly rates of compensation authorized under subsections (l) through (o) of section 314 for veterans with certain combinations of severe disabilities; the aid-and-attendance allowance rates authorized under subsection (r); the housebound rate authorized under subsection (s); the additional amount payable under subsection (t) to certain veterans who have suffered the service-connected loss or loss of use of the other, paired extremity; and the limitations on the total amount payable monthly to a veteran entitled to compensation under subsection (k) who is also entitled to compensation under another subsection of present section 314. Also, the maximum amount payable monthly to a veteran under subsection (p), which authorizes the Administrator to pay the next higher rate or intermediate rate to a veteran whose disabilities exceed the requirements for any of the rates prescribed in section 314, or who is both blind and deaf, would be increased by 7.4 percent.

Subsection (b) of section 101 would authorize the Administrator of Veterans' Affairs to increase by 7.4 percent the rates of disability compensation payable to persons within the purview of section 10 of Public Law 85-857 who do not receive compensation under chapter 11 of title 38. Public Law 85-857 generally codified in title 38 of the United States Code the laws relating to veterans' benefits; section 10 of that law provided that any individual who was receiving benefits as a veteran on December 31, 1958, under public laws administered by the VA but not so codified, was to continue to receive benefits at the rates payable under such public laws or under corresponding provisions of title 38, whichever is the greater, as long as he or she remains eligible.

Section 102

Would amend present section 315 of title 38, relating to additional compensation payable monthly to veterans with service-connected disability rates of 30 percent or more who have spouses, children, and dependent parents, to increase those allowances by 7.4 percent and to realign such rates as they relate to children.

Under existing law, for a veteran so disabled who has a spouse, but no child, the amount of additional compensation paid is $69; if the married veteran has one child, the amount is $116; if two children, $153; if three children, $193; and if more than three children, $193 plus $38 for each child in excess of three.

The Committee bill would increase and realign these compensation payments as follows: for a spouse, $74; for a child, $50; for each child therafter, $40. In addition, the Committee bill would increase by 7.4 percent the amount of the dependents' allowance payable on account of a dependent parent from $56 (for each such parent) to $60; on account of a severely disabled spouse, from $125 to $134; and on account of a child age 18 or older who is pursuing a course of education at an approved educational institution, from $105 to $112.

Under paragraph (2) of present section 315, the additional compensation for dependents payable to veterans rated from 30- to 90-percent disabled is prorated, so that, for example, a veteran rated at 30 percent would receive 30 percent of the amount specified in paragraph (1) of such section.

Section 103

Would amend present section 362 of title 38, relating to the clothing allowance payable annually to a veteran receiving compensation whose disability requires the use of a prosthetic or orthopedic appliance or appliances, including a wheelchair, that tends to wear out or tear the veterans' clothing, to increase that allowance by 7.4 percent, from $305 in existing law to $327.

Section 104

Would amend present section 411 of title 38, relating to the rates of dependency and indemnity compensation (DIC) for the surviving spouses of veterans whose deaths were service connected.

Subsection (a) of section 104 would amend subsection (a) of present section 411, relating to basic dependency and indemnity compensation rates payable to surviving spouses of veterans whose deaths were service connected, to increase by 7.4 percent the DIC benefit payable monthly to such a surviving spouse. Under current law, DIC benefits are paid according to the pay grade—service rank—of the deceased veteran; the amounts range from $415 per month for the surviving spouse of a veteran who had attained the grade of E-1, to $1,061 for the surviving spouse of a veteran who had attained the grade O-10. Those rates would be increased to $445 and $1,139, respectively; proportionate increases would be provided in the rates for the intermediate pay grades and in the rates payable to the surviving spouses of veterans who had served in the position specified in footnotes 1 and 2 to the table of grades and rates in existing section 411. These increases would automatically result in identical increases in the benefits payable at DIC rates under section 410(b) of title 38 to surviving spouses of certain veterans compensated at the 100-percent rate whose deaths were not service connected.

Subsection (b) of section 104 would amend subsection (b) of present section 411, to increase by 7.4 percent, from $48 to $51, the additional amount—dependents' allowances—payable for each child under the age of 18 to a surviving spouse receiving DIC.

Subsection (c) of section 104 would amend subsection (c) of present section 411, to increase by 7.4 percent, from $125 to $134, the additional amount of DIC payable monthly to a surviving spouse who is a patient in a nursing home, or who is helpless or blind or so nearly helpless or blind as to require the regular aid and attendance of another person.

Subsection (d) of section 104 would amend subsection (d) of present section 411, to increase by 7.4 percent, from $62 to $66, the DIC payable monthly to a surviving spouse who is so disabled as to be permanently housebound, but not in need of regular aid and attendance.

Section 105

Would amend present section 413 of title 38, relating to DIC for surviving children of veterans whose deaths were service connected, to provide a 7.4 percent increase in the monthly rates of DIC payable to the veteran's children where no surviving spouse is entitled. The current rates of $210 for one child, $301 for two children, and $389 for three children, plus $79 for each additional child would be increased to $225, $323, $417, and $84, respectively. Benefits payable at DIC rates under present section 410 (b) of title 38 to the surviving children of certain veterans compensated at the 100-percent rate whose deaths were not service connected would also be automatically increased as a result of the section 413 increase.

Section 106

Would amend present section 414 of title 38, relating to supplemental DIC for certain surviving children.

Clause (1) of section 106 would amend subsection (a) of present section 414, to provide a 7.4 percent increase, from $125 to $134, in the additional allowance payable monthly to a child eligible for

DIC who has attained the age of 18 and who became permanently incapable of self-support before reaching age 18.

Clause (2) of section 106 would amend subsection (b) of present section 414, to provide a 7.4 percent increase, from $210 to $225, in the DIC payable monthly, concurrently with the payment of DIC to a surviving spouse, to a surviving child who has attained the age of 18 and who became permanently incapable of self-support before reaching age 18.

Clause (3) of section 106 would amend subsection (c) of present section 414, to provide a 7.4 percent increase, from $107 to $114, in the additional DIC payable monthly, concurrently with the payment of DIC to a surviving spouse, to a surviving child pursuing a course of education approved under present section 104 of title 38.

Part B—Compensation and dependency and indemnity compensation improvements

Section 110

Would amend present section 314 of title 38, relating to the rate of compensation payable to certain severely disabled veterans, by raising totally blinded veterans without light perception from the rate provided in subsection (m), $1547 (as proposed to be increased to $1661 in the Committee bill), to the rate provided in subsection (n), $1758 (as proposed to be increased to $1888 in the Committee bill).

Section 111

Would amend present section 410(b)(1), relating to the entitlement to DIC benefits, by including cases in which the veteran would have been entitled to compensation but had not been in receipt of compensation because of clear and unmistake Veterans' Administration error. It would apply to future cases, as well as to cases already identified, and payments for the period of total disability as corrected for administrative error would be made retroactively.

Part C—Supersession of certain provisions

Section 120

Would provide that the provisions of this title supersede provisions of section 405 of the Omnibus Reconciliation Act of 1982, Public Law 97-253. Such supersession was expressly contemplated in the Reconciliation Act itself, in section 405(a).

Title I—Cost: Enactment of the provisions of title I is estimated to cost $689.9 million in budget authority and $636.6 million in outlays in fiscal year 1983.

TITLE II—AMENDMENTS OF VETERANS' EDUCATION AND REHABILITATION PROGRAMS

Section 201

Would amend present section 243 of title 38, United States Code, relating to veterans' representatives on campus and the so-called "vet-rep" program, to eliminate the mandatory nature of the program and, instead, to authorize the Administrator to provide assistance to veterans concerning their educational benefits and to provide outreach reserves through stationing vet reps at educational institutions and other appropriate locations.

Section 202

Would amend subsection (g) of present section 1508 of title 38, relating to a prohibition on the payment of chapter 31 vocational rehabilitation subsistence allowances to veterans incarcerated for a felony, to remove the prohibition under paragraph (2) of that subsection on the payment of such allowances where the veteran is residing in a halfway house or participating in a work-release program and all of the veteran's living expenses are being defrayed by a government agency.

Section 203

Clause (1) of section 203 would amend present section 1622(d) of title 38, relating to the Post-Vietnam Era Veterans' Educational Assistance program (VEAP) participant's lump-sum payments to his or her VEAP account, to provide that for purposes of calculating the amount of the participant's monthly VEAP benefits, such lump-sum payments will be considered to have been made in monthly military-pay deductions of $100, rather than $75 as under current law.

Clause (2) of section 203 would amend present section 1622, relating to the VEAP contributions and the VEAP matching fund, to add a new subsection as follows:

New subsection (e) of section 1622: Would authorize the Administrator to utilize the chapter 32 VEAP matching fund for the purposes of receiving funds from the Department of Defense for benefits under the DOD-funded pilot program of educational assistance established pursuant to section 901 of Public Law 96-342 and of disbursing those funds to those enrolled in training under that program.

Section 204

Subsection (a) of section 204 would amend present section 1662 of title 38, relating to the time limitations on the provision of GI Bill educational assistance under chapters 34 and 36 of title 38, to repeal subsection (e), which prohibits the provision of any such assistance after December 31, 1989, and thus would allow all veterans to use their GI Bill benefits during their normal periods of eligibility, which generally expire at the end of the 10-year period following their discharge or release from active duty.

Subsection (b) of section 204 would amend chapter 34 of title 38, relating to GI Bill educational assistance, to add a new section 1694, as follows:

New section 1694 would require the Secretary of Defense to reimburse the Administrator for all GI Bill educational and training allowances paid to veterans under chapters 34 and 36 after December 31, 1989.

Section 205

Subsection (a) of section 205 would amend present section 1673(a) of title 38, relating to the disapproval of GI Bill participants' enrollments in certain courses, to repeal the requirement that institutions offering vocational objective courses compute and submit a report on the number of graduates of such courses who have obtained employment in the career field for which training was received during the preceding 2 years in order to be approved for the enrollment of veterans under chapter 34.

Subsection (b) of section 205 would amend present section 1723(a), relating to the disapproval of the enrollment in certain courses of certain service-connected disabled veterans' survivors and dependents using chapter 35 educational assistance, to repeal the requirement that institutions offering vocational objective courses compute and submit a report on the number of graduates of such courses who have obtained employment in the career field for which training was received during the preceding 2 years in order to be approved for the enrollment of eligible dependents and survivors under chapter 35.

Section 206

Subsection (a) of section 206 would amend present section 1652(b) of title 38, relating to the definition of "program of education" for the purposes of chapter 34, to update a reference to another provision of law.

Subsection (b) of section 206 would amend present section 1673(d), relating to the disapproval of GI Bill participants' enrollment in certain courses where more than 85 percent of the enrollees are in receipt of VA educational assistance, to clarify that this restriction applies to high-school level and general education diploma training offered, other than through contracts with the Department of Defense, to individuals enrolled in such training at no charge to their entitlements while on active duty.

Subsection (c) of section 206 would amend present section 1682, relating to the computation of GI Bill educational assistance allowances.

Clause (1) of subsection (c) of section 206 would amend section 1682(a)(1) to make a technical correction in existing law.

Clause (2) of subsection (c) of section 206 would amend subsection (e) of present section 1682, relating to the computation of allowances for programs of independent study, to clarify that the rate at which entitlement to GI Bill educational benefits is charged for programs composed wholly of independent study shall be at the rate at which benefits are paid.

Clause (3) of subsection (c) of section 206 would amend subsection (g) of present section 1682, relating to a prohibition on the payment of educational assistance allowances to veterans incarcerated for the conviction of a felony, to remove the prohibition under paragraph (2) of that subsection on the payment of such allowances where the veteran is residing in a halfway house or participating in a work-release program and all of the veteran's living expenses are being defrayed by a government agency.

Subsection (d) of section 206 would amend present section 1780(a), relating to periods for which payments of educational assistance allowances may be made, to correct an erroneous cross-reference to a section in chapter 31 of title 38 and to repeal the prohibition on such payments to incarcerated veterans and eligible persons for any course to the extent that tuition and fees for such course are paid under other Federal, State, or local programs and for any course for which there are no tuition and fees charged.

Subsection (e) of section 206 would amend present section 1798(e)(3), relating to the Administrator's annual report on the default rate under the VA's educational loan program, to repeal certain specifications regarding the contents of the report.

Section 207

Would amend present section 1790(b) of title 38, relating to the discontinuance of educational assistance allowances, to add a new paragraph as follows:

Subparagraph (A) of new paragraph (3) of section 1790(b) would provide the Administrator with the authority to suspend educational assistance benefits to eligible veterans and eligible persons enrolled in a course and to disapprove the enrollment or reenrollment of such veterans and persons in that course when the Administrator has evidence that there is substantial pattern of noncompliance with or violation of certain applicable requirements of title 38—specifically, the course approval requirements in present chapter 36 and the record-keeping and reporting requirements in chapters 32, 34, and 35.

Subparagraph (B) of new paragraph (3) of section 1790(b) would provide that the authority to suspend benefits as proposed to be provided by subparagraph (A) of this new paragraph (3) could be exercised only if the Administrator has given written notice to the State approving agency (SAA) and the educational institution involved of the noncompliance or violation and the institution either refuses to take corrective action or, within 60 days after the written notice, fails to take corrective action. In addition, the Administrator would be required to give no less than a 30-day notice (which could be done within the 60-day notice period to the SAA and the institution) of the intent to suspend benefits, together with the reason therefor, to the eligible veterans and eligible persons who would be affected.

Section 208

Would amend present section 1662(a)(3) of title 38, relating to the extension of the period of time for use of educational assistance benefits under chapter 34 of title 38 by certain Vietnam-era veterans pursuing secondary education, apprenticeship or other on-job training, or vocational training—the so-called "targeted delimiting date extension"—to clarify Congressional intent with respect to the granting of such extensions and to extend the period of time during which such extensions are available.

Clause (1) of subsection (a) of section 208 would amend subparagraph (C)(i) of present section 1662(a)(3) to provide that a veteran shall be determined eligible for a targeted delimiting date extension unless the veteran's particular employment and training history are examined and the examination shows that the veteran is not in need of the chosen, approved program or course of apprenticeship or other on-job training or course with an approved vocational objective in order to obtain a reasonably stable employment situation consistent with the veteran's abilities and aptitudes.

Under current law, a veteran is eligible for such an extension only if the Administrator determines that the veteran is in need of such program or course in order to achieve a suitable occupational or vocational objective. The implementing VA procedures (DVB Circular 22-81-15) set forth eligibility criteria establishing various grounds for automatic ineligibility that are unduly restrictive and are inconsistent with the Congressional intent underlying the extension provision. The Committee emphasizes that this amendment is designed to permit a veteran to be denied eligibility only after a case-by-case determination and to preclude the use of any arbitrary, automatically disqualifying criteria.

Clause (2) of subsection (b) of section 208 would amend subparagraph (D) of present section 1662(a)(3) to extend for one additional year—or until December 31, 1984—the period of time during which a veteran may use GI Bill educational assistance under the targeted delimiting date extension provision.

Subsection (b) of section 208 would require the Administrator to publish, for public review and comment, proposed regulations to implement the provisions of subsection (a) of this section within 30 days after the date of the enactment of the Committee bill and to publish final regulations within 90 days after such date.

Section 209

Would provide for the tolling (extension) of the periods of eligibility for GI Bill educational assistance and for a VA program of vocational rehabilitation where an alcohol or drug dependence or abuse condition has prevented the individual from pursuing training.

Subsection (a) of section 209 would amend present section 1503(b) to redesignate existing paragraph (1) as subparagraph (A) of paragraph (1) and to add a new subparagraph (B) as follows:

Division (i) of new subparagraph (B) of subsection (B)(1) of section 1503 would provide that the 12-year period of a veteran's eligibility for chapter 31 vocational rehabilitation training would not run during the period of time during which the Administrator determines, subject to the limitations in divisions (iii) and (iv) of this new subparagraph, that the veteran was unable to participate in such training as a result of a condition described in division (ii) of this new subparagraph.

Division (ii) of new subparagraph (B) of subsection (b)(1) of section 1503 would provide that the condition referred to in division (i) of this new subparagraph, on the basis of which the 12-year period of eligibility may be stopped from running, is an alcohol or drug dependence or abuse condition in a case in which the Administrator determines, under regulations that the Administrator must prescribe, that (1) the veteran either has received recognized treatment or has participated in a program of rehabilitation for the condition, and (2) the condition is sufficiently under control so as to enable the veteran to participate in a vocational rehabilitation program.

Division (iii) of new subparagraph (B) of subsection (B)(1) of section 1503 would require that a veteran, in order to be eligible under division (i) of this new subparagraph for a tolling of the 12-year period of eleigibility, make application therefor within one year after whichever is the latest of (1) the date on which the otherwise applicable eligibility expired, or (2) the termination of the last period of treatment or rehabilitation for the veteran's alcohol or drug condition, or (3) the date on which final regulations implementing the provisions of this new subparagraph are published.

Division (iv) of new subparagraph (B) of subsection (b)(1) of section 1503 would limit the maximum period of time for which a 12-year period of eligibility may be tolled to the length of the period during which the veteran received treatment or participated in a program of rehabilitation for the condition plus the length of any period that the veteran demonstrates, to the Administrator's satisfaction, that the veteran was prevented from participating in a program of vocational rehabilitation. However, in no case could such an extension exceed 4 years.

Division (v) of new subparagraph (B) of subsection (b)(1) of section 1503 would provide that when a period of eligibility is tolled under division (i) of this new subparagraph, it will again begin to run on the first day—following the alcohol or drug condition becoming sufficiently under control for the veteran to participate in a program of vocational rehabilitation—on which it is reasonably feasible, as determined by regulations to be prescribed by the Administrator, for the veteran to participate in such a program.

Subsection (b) of section 209 would amend present section 1662(a), relating to the period of eligibility for chapter 34 (GI Bill) educational assistance—the so-called "delimiting period"—and the extensions of such periods, to provide for the tolling of the period of eligibility in certain cases in which a veterans's alcohol or drug dependence or abuse condition has prevented the veteran from pursuing his or her chosen program of education.

Clause (1) of subsection (b) of section 209 would amend present section 1662(a)(1), which provides for the tolling of the delimiting period where the veteran was prevented by a physical or mental disability from pursuing his or her chosen program of education, to provide for tolling the delimiting period, under the conditions described in new paragraph (4) of section 1662(a), as proposed to be added by paragraph (2) of this subsection of this section of the Committee bill, where a veteran has been prevented from pursuing such a program of education because of a condition described in that proposed new paragraph; and would make certain conforming changes in provisions of present section 1662(a)(1) relating to certain administrative aspects of tolling the delimiting period on grounds of disability (not including alcohol and drug conditions) to limit the applicability of those provisions to disability cases.

Clause (2) of subsection (b) of section 209 would further amend secton 1662(a) to add a new paragraph (4), as follow:

Subparagraph (A) of new paragraph (4) of section 1662(a) would provide that the condition referred to in section 1662(a)(1), as proposed to be amended by paragraph (1) of this subsection, on the basis of which condition the delimiting period may be tolled, is an alcohol or drug dependence or abuse condition of a veteran is a case in which the Administrator determines, pursuant to regulations to be prescribed by the Administrator, that (1) the veteran either received recognized treatment or participated in a program of rehabilitation for the condition, and (2) the condition is sufficiently under control so as to enable the veteran to participate in his or her chosen program of education.

Subparagraph (B) of new paragraph (4) of section 1662(a) would provide that application for the tolling of the delimiting period in these cases would be required to be made within one year after the latest of (1) the expiration of the otherwise applicable delimiting period, (2) the termination of the last period of treatment or rehabilitation for the alcohol or drug condition, or (3) the date on which final regulations to implement the provision are published. The length of the period of tolling would be limited to the length of time the veteran received treatment or participated in rehabilitation for the condition plus the period of time during which the veteran demonstrates to the satisfaction of the Administrator that the condition prevented pursuit of a program of education. However, in no case could such an extension exceed 4 years. When the delimiting period has been tolled, it would again begin running on the first day—following the alcohol or drug condition becoming sufficiently under control for the veteran to pursue his or her chosen program of education—on which it is reasonably feasible, as determined pursuant to regulations to be prescribed, for the veteran to begin or resume pursuit of a program of education with GI Bill educational assistance.

Subsection (c) of section 209 would amend present section 1712(b), relating to periods of eligibility of the survivors and dependents of certain service-connected disabled veterans for chapter 35 educational assistance and the extension of such periods on account of disabilities, to provide for delimiting period extensions where an alcohol or drug dependence or abuse condition of an eligible spouse or surviving spouse has prevented the spouse or surviving spouse from pursuing his or her chosen program of education. The particulars of the provision are substantively identical to those described in connection with subsection (b) of this section of the Committee bill with respect to GI Bill delimiting period extensions for veterans.

Title III—Cost: Enactment of the provisions of title II is estimated to effect a cost-savings of $.03 million in budget authority and outlays for fiscal year 1983.

TITLE III—VETERANS' EMPLOYMENT AMENDMENTS

Section 301

Would express Congressional findings that serious unemployment and underemployment problems exist among disabled veterans and veterans of the Vietnam-era, that alleviation of unemployment and underemployment among such veterans is a national responsibility, and that policies and programs to addresss those problems need to be effectively and vigorously implemented by the Secretary of Labor through the Assistant Secretary of Labor for Veterans' Employment (ASVE).

Section 302

Would amend present section 2002 of title 38, United States Code, relating to the declaration of Congressional intent regarding the provision to veterans of job-training and employment services, to require that regulations be promulgated and administered to provide eligible veterans and eligible persons the maximum of employment and training opportunities and that priority be given, in the provision of such opportunities, to the needs of disabled and Vietnam-era veterans.

Section 303

Would amend present section 2003 of title 38, relating to the assignment of veterans' employment representatives and assistant veterans' employment representative to the States, to provide a new heading, "State and Assistant State Directors for Veterans' Employment", to provide statutory titles for such representatives, "State Director for Veterans' Employment" and "Assistant State Director for Veterans' Employment", and to restructure and make two substantive changes (discussed below in the analysis of proposed new subsections (a) and (b) of present section 2003) in the material preceding clause (1) of that section by organizing that material, together with clauses (1) through (7), into four new subsections, as follows:

New subsection (a) of section 2003 would incorporate the provisions of the first sentence of present section 2003, relating to the assignment of State and Assistant State Directors of Veterans' Employment, and clarify Congressional intent with respect to the provision of clerical support to such State Directors. Under existing law, the Secretary of Labor is required to assign full-time clerical support to each State representative. The provisions of the Committee bill would clarify that the clerical support required to be provided to State Directors is provided by full-time Federal employees.

New subsection (b) of section 2003 would incorporate the provisions of the second sentence of present section 2003, relating to the qualifications of veterans' employment representatives and assistant veterans' employment representatives and their appointments, and would authorize the ASVE, in cases in which no qualified veteran meeting the two-year in-state residency requirement for the position of the State or Assistant State Director can, after a good faith search within the State, be identified to appoint a qualified veteran who has been an Assistant State Director in another State for at least one year to fill the position.

New subsection (c) of section 2003 would incorporate the provisions of the third and fouth sentences of present section 2003, relating to the relationship of the veterans' employment represntatives and such assistnat representatives to the public employment service system in the States and to their administrative responsibilities with respect to the Department of Labor, with non-substantive conforming amendmnts.

New subsection (d) of section 2003 would incorporate the provisions of the fifth sentence of present section 2003 (including clauses (1) through (7) of that section), relating to the responsibilities of veterans' employment representatives and such assistant representatives. Clause (6) of new section (d) (currently clause (6) of section 2003), relating to such representatives's responsibilities in connection with activities conducted under the Comprehensive Employment and Training Act (CETA), would be amended to reflect the anticipated enactment of the new Federal emploment and training legislation to replace the expiring CETA authority. In addition, the Committee bill would add new caluses (8) through (12) to new subsection (d) of section 2003 to expand the responsibilities of State and Assistant State Directors of Veterans' Employment to include: the supervision of the listing of jobs and referrals of veterans to such jobs as required in present section 2021 of title 38 (new clause (8)); responsibilities for ensuring that complaints of discrimination filed under such section 2012 are resolved in a timely fashion (new clause (9)); working closely with VA officials and cooperation with employeres in identifying veterans training under chapter 31 of title 38 (new clause (10)); cooperation with the directors of veterans assistance offices established under section 242 of title 38 in identifying and assisting veterans with readjustment difficulties who are in need of employment or training assistance (new clause (11)); and in the case of disabled veterans, the provision of assistance to employers in identifying and acquiring prosthetic and sensory aids to enhance disabled veterans' employability (new clause (12)).

Section 304

Would amend present section 2003A of title 38, relating to the Disabled Veterans' Outreach Program (DVOP).

Clauses (1) and (2) of subsection (a) of section 304 would amend subsection (a) of present section 2003A, relating to the availability and use of funds for DVOP, to specify that funds for DVOP are made available or are provided for use in each State. Current law provides that funds are made available to each State, directly or by grant or contract, but does not expressly limit the availability and use of the funds to availability and use in the State to which they are provided.

Clause (3) of subsection (a) of section 304 would further amend subsection (a) of present section 2003A to add a new paragraph as follows:

New paragraph (5) of subsection (a) of section 2003A would specify that the distribution and use of DVOP funds would be subject to the continuing supervision and monitoring of the ASVE, and that such funds would not be governed by the provisons of any law or regulation that is inconsistent with the provisions of section 2003A of title 38.

Subsection (b) of section 304 would amend paragraph (2) of section (b) of present section 2003A, relating to the requirement that at least 25 percent of DVOP specialists within each State be stationed at locations other than local employment service offices, to permit the waiver of this requirement, after consultation with the State Director for Veterans' Employment, on a State-by-State basis so long as the percentage of DVOP specialists so stationed is at least 20 percent nationwide and to make a technical amendment correcting an erroneous reference to section 612A of title 38.

Subsection (c) of section 304 would amend subsection (c) of present section 2003A, relating to the responsibilities of DVOP specialists, to make a nonsubstantive amendment reflecting the anticipated enactment of CETA-successor legislation, and to add a new paragraph as follows:

New paragraph (8) of subsection (c) of section 2003A: Would require DVOP specialists to develop—in cooperation with VA vocational rehabilitation staff, institutions of higher learning, and employers—outreach programs to assure maximum assistance to veterans who are enrolled in or have completed vocational rehabilitation training provided to service-connected disabled veterans under chapter 31 of title 38.

Subsection (d) of section 304 would delete subsection (d) of present section 2003A, relating to the transition of DVOP specialists employed in the program when Public Law 96-466 was enacted; would redesignate subsection (e) of present section 2003A, relating to the responsibilities of the ASVE in connection with DVOP, as subsection (d); and would amend subsection (d) (as so redesignated) to provide that the ASVE has the responsibility to monitor the appointment of DVOP specialists and to ensure that such appointments are made in accordance with the provisions of section 2003A.

Section 305

Would amend present section 2006 of title 38—relating to the Secretary's responsibilities to estimate funds needed for the administration of chapter 41 of title 38, relating to job counseling, training and placement services for veterans, and to provide such estimates as a special item in the annual budget for the Department of Labor—to require that such estimates also include an estimate of funds needed for the administration of chapter 42, relating to employment and training of disabled and Vietnam-era veterans, and chapter 43, relating to veterans' reemployment rights. It would further amend section 2006 to require that funds so estimated only be approved if they are sufficient to support the statutorily-mandated level of DVOP specialists as provided in section 2003A and that the Secretary carry out the responsibilities of section 2006(a) through the ASVE. Finally, this section would provide that the funds appropriated for the administration of chapter 41 upon a demonstrated lack of need be exercised only upon a recommendation of the ASVE.

Section 306

Would amend subsection (c) of present section 2007 of title 38, relating to the Secretary's annual report to the Congress on veteran's employment and training initiatives, to require a report on activities under the DVOP authority in section 2003A.

Section 307

Would amend paragraph (5) of present section 2011 of title 38, relating to the definition of the term "department or agency" for the purposes of chapter 42 of title 38, to add to the terms defined in that paragraph the term "department, agency and instrumentality in the executive branch" and to include specifically in the agencies encompassed in those terms the United States Postal Service and the Postal Rate Commission. The effect of this amendment is to subject those two entities to the requirement of chapter 42, including the requirements of section 2012, relating to veterans' employment emphasis under Federal contracts, and section 2014(c), relating to the requirement for the submission of affirmative action plans for disabled veterans.

Section 308

Would amend present section 2012 of title 38, relating to veterans' employment emphasis under Federal contracts and the requirement that employers having certain contracts with the Federal government in amounts of $10,000 or more (and certain subcontractors of such contractors) take affirmative action to employ and advance in employment service-connected disabled veterans rated 30-percent or more disabled and veterans of the Vietnam era, to add a new subsection as follows:

Paragraph (1) of new subsection (d) of section 2012 would require that such Federal contractors report at least annually to the Secretary of Labor on the number of such veterans in their work force by job category and hiring location.

Paragraph (2) of new subsection (d) of section 2012 would require the Secretary of Labor to insure that the administration of this reporting requirement is coordinated with other requirements for reports from such contractors.

Section 309

Would amend present section 2025 of title 38, relating to the Secretary's responsibility to render aid to veterans seeking to secure their reemployment rights, to require that the Secretary carry out the provisions of Chapter 43 through the Assistant Secretary of Labor for Veterans' Employment.

Section 310

Would amend section 6 of Public Law 90-83 to repeal the authority for the Exemplary Rehabilitation Certificates Program.

Title III—Cost: The enactment of this provision is estimated to entail no significant cost.

TITLE IV—MISCELLANEOUS IMPROVEMENTS

Section 401

Would amend present chapter 19 of title 38, relating to insurance, to provide for a limited expansion of the categories of persons to whom assignments of National Service Life Insurance (NSLI) and United States Government life insurance (USGLI) policy proceeds may be made.

Subsection (a) of section 401 would amend present section 718, relating to assignments of insurance policy proceeds by beneficiaries of NSLI policies, to add a new subsection (c), as follows:

New subsection (c): Would authorize in certain specifically defined circumstances the assignment of all or part of the proceeds of a NSLI policy by a person claiming such proceeds to another person claiming the same proceeds in order to facilitate the resolution of the dispute between them. Under present section 718, a designated beneficiary or other person to whom NSLI proceeds are payable (other than under present section 722(b)) may assign all or any portion of the proceeds only to the insured veteran's surviving spouse, child, parent, grandparent, brother, or sister, and, unless the proceeds are to be paid in a lump sum, only if the designated contingent beneficiary, if any, joins in the assignment.

An assignment is authorized under this new subsection only with respect to NSLI policies maturing on or after the date of enactment and only if the proposed assignee claims the proceeds on the ground that the insured veteran, during his or her lifetime (1) designated the proposed assignee as the beneficiary, (2) entered into a contract with the proposed assignee to designate that person as the beneficiary, or (3) was ordered by a court to designate or retain the proposed assignee as the beneficiary. Unless the proceeds are to be paid in a lump sum, the designated contingent beneficiary, if any, would be required to join in any assignment by a person upon whose death or disqualification such contingent beneficiary's claim to those proceeds would be predicated. This new subsection does not apply to payments of insurance granted under present section 722(b) of title 38, to statutorily designated survivors of certain mentally incompetent veterans.

Subsection (b) of section 401 would amend present section 753, relating to assignments of insurance policy proceeds by beneficiaries of USGLI policies, to add to new subsection (b) as follows:

New subsection (b): Would authorize in certain specifically defined circumstances the assignment of all or part of the proceeds of a USGLI policy by a person claiming such proceeds to another person claiming the same proceeds in order to facilitate the resolution of the dispute. Under present section 753, a person to whom USGLI proceeds are payable may assign all or any portion of the proceeds only to the insured veteran's spouse, child, grandchild, parent, brother, sister, uncle, aunt, nephew, niece, brother-in-law, or sister-in-law, and, unless the proceeds are to be paid in a lump sum, only if the designated contingent beneficiary, if any, joins in the assignment. An assignment is authorized under this new subsection only with respect to USGLI policies maturing on or after the date of enactment and only if the proposed assignee claims the proceeds on the ground that the insured veteran, during his or her lifetime (1) designated the proposed assignee as the beneficiary, (2) entered into a contract with the proposed assignee to designate that person as the beneficiary, or (3) was ordered by a court to designate or retain the proposed assignee as the beneficiary. Unless the proceeds are to be paid in a lump sum, the designated contingent beneficiary, if any, must join in any assignment by the person upon whose death or disqualification such contingent beneficiary's claim to those proceeds would be predicated.

Section 401—Cost: The enactment of this section is not expected to result in any significant cost.

Section 402

Would amend subsection (c) of present section 770 of title 38, relating to payments of insurance under the Servicemen's Group Life Insurance and Veterans' Group Life Insurance programs, to eliminate the 4-year time restriction on the filing of claims for proceeds of such insurance, and to provide that the proceeds will not escheat to a State. This section would conform the SGLI-VGLI program with the United States Government life insurance program and the

National Service Life Insurance program regarding time restrictions and escheats.

Clause (1) of section 402 would amend present section 770(c), relating to payments of insurance proceeds under the SGLI and VGLI programs, by striking the second sentence of that subsection, thereby eliminating the 4-year restriction on filing claims for such insurance proceeds.

Clause (2) of section 402 would further amend present section 770 by adding a new subsection (h) as follows:

Subsection (h): Would specify that under no circumstances may the proceeds of a SGLI or VGLI policy escheat to a State. This new subsection would also require that, prior to payment of proceeds to the estate of the insured or to the estate of a beneficiary, an affirmative showing must be made that all sums to be paid will not escheat to a State. Under present law, if the proceeds of an insurance policy are not claimed within a 4-year period following the death of the insured, such proceeds escheat to a revolving fund. Since the 4-year time restriction would be eliminated by clause (1) of this section, it is necessary to specify that the proceeds will at no time escheat to a State.

Section 403

Would amend present section 902 of title 38, relating to the up-to-$300 VA burial benefit for certain veterans who die from non-service-connected causes, to add a new subsection (c), as follows:

Paragraph (1) of new subsection (c): Would provide that, for the purposes of the burial benefit eligibility criteria set forth in section 902(a), which provide eligibility only in the cases of veterans who, at the time of death, were entitled to service-connected disability compensation or in receipt of VA non-service-connected disability pension, a veteran of a period of war or a veteran discharged or released from active military, naval, or air service for a service-connected disability shall be deemed to have been in receipt of pension at the time of death if a State or political subdivision of a State submits a written certification to the Administrator that the body of the veteran was not claimed by a next of kin or other person, that the State (or political subdivision) has assumed responsibility for the burial and funeral expenses of the veteran, and that sufficient resources or funds, other than the resources or funds of the State (or political subdivision), are not available to cover the burial and funeral expenses.

Paragraph (2) of new subsection (c): Would provide that the payment on behalf of a veteran who is thus deemed to have been in receipt of pension at the time of death shall—notwithstanding the provisions of present section 902(b), which, in part, preclude payment of the burial benefit for expenses paid by a State or political subdivision of the United States—be made to the State (or political subdivision) that provides the certification pursuant to paragraph (1) of this new subsection and shall be the lesser of $300 or the actual burial and funeral expenses that it incurred.

Section 404

Would amend present chapter 37 of title 38, relating to housing and small business loans, to authorize the VA to guarantee certain loans made to a veteran for the purposes both of refinancing a lien on a manufactured home and of purchasing a lot for the home, and to change the references to mobile homes to manufactured homes.

Subsection (a) of section 404 would amend present section 1819(a), relating to the purposes for which VA-guaranteed loans may be made.

Clause (1) of subsection (a) of section 404 would make a conforming change in section 1819(a)(1), in light of the provisions of new clause (G) of section 1819(a)(1), as proposed to be added by clause (2) of this subsection of the Committee bill, that would authorize the guarantee of a loan made for the two purposes specified in new clause (G).

Clause (2) of subsection (a) of section 404 would amend paragraph (1) of present section 1819(a) to add a new clause (G), as follows:

New clause (G) of paragraph (1) of subsection (a) of section 1819: Would provide that a loan may be guaranteed under chapter 37 if the purposes of the loan are (1) to refinance in accordance with the provisions of paragraph (5) of section 1819(a), as proposed to be added by clause (5) of section 404(a) of the bill, a previous loan that was made for the purchase of and that is secured by a manufactured home, and (2) to purchase a lot on which such home is or will be placed.

Clause (3) of subsection (a) of section 404 would amend section 1819(a)(2) to make conforming changes reflecting the addition of new clause (G) to section 1819(a)(1), as proposed to be added by clause (2) of this subsection of the bill, and the addition, by section 401(b)(1) of Public Law 96-385, of clause (F) to section 1819(a)(1).

Clause (4) of subsection (a) of section 404 would amend section 1819(a)(3) to make a conforming change reflecting the addition of new clause (G) to section 1819(a)(1), as proposed to be added by clause (2) of this subsection of the bill.

Clause (5) of subsection (a) of section 404 would amend present section 1819(a) to add a new paragraph (5), as follows:

Subparagraph (A) of new paragraph (5) of section 1819(a): Would require that, in order for the VA to guarantee a loan made for the purposes of new clause (G) of section 1819(a)(1), as proposed to be added by clause (2) of this subsection of the bill, the loan must be secured by the same manufactured home as the loan being refinanced and such home must be owned and occupied as the veteran's home, and the amount of the loan may not exceed an amount equal to the sum of the purchase price of a lot, the cost of necessary preparation of such lot, the balance of the loan being refinanced, and authorized closing costs.

Subparagraph (B) of new paragraph (5) of section 1819(a): Would provide that, where a loan is made for the purposes of (1) refinancing a previous VA loan made for the purchase of a manufactured home, and (2) purchasing a lot, the amount of the new loan that is applied to paying off the previous loan may be guaranteed without regard to the amount of the veteran's unused entitlement and the veteran's entitlement would not be charged with respect to that portion of the new loan.

Subsection (b) of section 404 would amend present section 1803(c)(3), relating to a veteran's payment of a discount to a lender, to add a new clause (E), as follows:

New clause (E) of section 1803(c)(3): Would specify that there is no prohibition against a veteran paying a reasonable discount required by a lender when the proceeds of the loan are used—as authorized by new clause (G) of section 1819(a)(1), as proposed to be added by section 404(a)(2) of the bill—to refinance an existing loan on a manufactured home and to purchase a lot on which such home is or will be placed.

Subsection (c) of section 404 would make a series of nonsubstantive amendments to present chapter 37 to make a change in nomenclature by deleting all references to "mobile home", "mobile homes", "mobile-home lot", and "mobile-home lots" and replace them with references to "manufactured home", "manufactured homes", "manufactured-home lot", and "manufactured-home lots", respectively.

Section 405

Section 405 would amend present section 3102 of title 38, relating to the waiver of recovery of payments and overpayments of benefits under laws administered by the Veterans' Administration.

Clause (1) of section 405 would amend section 3102 of title 38, to reduce from 2 years to 180 days the period for requesting waiver of repayment of a debt owed to the VA.

Clause (2) of section 405 would amend section 3102(a) to provide the Administrator of Veterans' Affairs authority to grant an individual a longer period to request such a waiver when the individual demonstrates to the satisfaction of the Administrator that notification of the indebtedness was not actually received within a reasonable period after the date of notification. Such an extension beyond the 180-day period would be for such time as the Administrator determines to be reasonable.

Section 406

Would amend section 3103A of title 38, United States Code, relating to the general requirement that persons who initially enter active duty in the Armed Forces after September 7, 1980, and fail to complete least 2 years of service be denied eligibility for benefits under title 38 and benefits under any other law administered by the VA, to provide for a parallel minimum-service requirement with respect to benefits under laws other than title 38 and other than laws administered by the VA. Thus, this section of the Committee bill would replace the existing minimum-service requirement in section 977 of title 10, United States Code, with respect to non-title 38/non-VA benefits. Section 3103A—which was enacted on October 17, 1981, by Public Law 97-66—has already replaced the minimum-service requirement in section 977 of title 10 with respect to title 38 and VA benefits.

Clause (1) of subsection (a) of section 406 would amend present section 3103A by redesignating subsection (d) as subsection (e) and inserting a new subsection (d), as follows:

New subsection (d) of section 3103A: Would establish a general 2-year minimum-service requirement for eligibility for benefits based on active-duty service under any Federal law other than either title 38 or laws administered by the VA with respect to (1) any person who originally enlists in a regular component of the Armed

Forces after September 7, 1980, and (2) any other person who enters on active duty on or after the date of enactment of the Committee bill without having previously completed 24 months of continuous active duty or having been discharged from active duty under section 1171 of title 10, United States Code, under which an enlisted person may be discharged for the convenience of the government up to 90 days prior to expiration of his or her enlistment. The applicability of the proposed minimum-service requirement to those who originally enlisted prior to the date of enactment but after September 7, 1980, is based on the fact that the provisions of section 977 of title 10, which the Committee bill would supersede, imposed a 2-year minimum-service requirement—similar to that provided for in the Committee bill—with respect to persons who originally enlisted after that date. The other categories of personnel to whom the proposed requirement would apply are personnel with active duty prior to September 7, 1980, of less than 2 years, military officers, and Public Health Service and National Oceanic and atmospheric Administration commissioned officers. Because the title 10 provision does nt apply to them, the new provisions make them subject to this minimum-service requirement only prospectively. As to those who have some prior service before reentering active duty and who, even though they reentered active duty after September 7, 1980, are not subject to the present title 10 provision because that provision applies only to original enlistments, the Committee bill would not impose any minimum-service requirement if they had already served for 2 years continuously or received up-to-90-day early discharges for the convenience of the government under section 1171 of title 10.

The Committee bill incorporates policy modifications of the title 10 provision that are parallel to those made with respect to title 38 and other VA benefits in the enactment last year of present section 3103A of title 38. These modifications would provide exemptions for section 1171 dischargees, who are not exempted under the title 10 provision; would exempt, as does the title 10 provision, those who receive hardship discharges under section 1173 of title 10; would exempt (in a way generally consistent with section 977 of title 10) those discharged for a disability incurred or aggravated in line of duty; and would provide an exemption (in contrast to the title 10 exempton for those with any service-connected disability, including a disability rated zero-percent disabling and thus not compensable) for veterans who have compensable service-connected disabilities.

The Committee bill would exclude from the scope of the minimum-service requirement all Social Security Act benefits for which social security taxes are paid and would cover only one Social Security Act benefit—the so-called "deemed military wage credits" under section 229(a) of that Act. The Committee bill would also exclude from the scope of the minimum-service requirement all benefits under title 5 except for veterans preference in Federal employment.

Finally, the Committee bill would provide (as section 3103A as enacted last year generally provides with respect to title 38 benefits and other VA benefits) that a veteran's dependent or survivor is not eligible for a non-title 38/non-VA benefit based on the veteran's service where the veteran would be denied benefits because of having failed to satisfy the minimum-service requirement. Present section 977 of title 10 makes no reference to the eligibility of dependents or surviviors.

Clause (2) of subsection (a) of section 406 would amend subsection (e) of present section 3103A (as proposed to be redesignated by paragraph (1) of this subsection of section 406 of the Committee bill), relating to the definition of "benefit" for the purposes of section 3103A, to clarify that the term includes a right to special consideration, preference, priority, or similar advantage. This amendment would thus make clear, for example, that the proposed minimum-service provision applies to the requirement that veterans and their survivors and dependents be given special consideration in Small Business Administration programs (section 4(b)(1) of the Small Business Act (15 U.S.C. § 633 (b)(1)) and to the requirement that wartime veterans and certain survivors be given preference ahead of other applicants for Farmers Home Administration assistance (section 507 of the Housing Act of 1949 (42 U.S.C. § 1477)).

Clause (3) of subsection (a) of section 406 would further amend present section 3103A to add a new subsection (f), as follows:

New subsection (f) of section 3103A: Would clarify that the minimum-service requirements in section 3103A (both the new and existing ones) do not apply to procedural rights, including rights to assistance in applying for or claiming a benefit. Thus, threshold eligibilty determinations would not be required to the made before assistance can be rendered to those claiming benefits based on active-duty service.

Subsection (b) of section 406 would provide that the denial of benefits required under new subsection (d) of section 3103A (as proposed to be added by subsection (a)(1) of this section of the Committee bill) for failure to satisfy the minimum-service requirement does not apply to any benefit received before the date of enactment. Thus, in those limited respects in which an individual would lose existing eligibility by virtue of the enactment of this section of the committee bill, the individual would not be required to make any repayment to the government in connection with any benefit he or she received prior to the date of enactment. (An example would be a veteran with a service-connected, but zero-rated disability who, although not satisfying the minimum-service requirement in section 977, is not denied benefits by section 977, but would be denied benefits by the Committee bill.) In this connection, deemed military wage credits under section 229(a) of the Social Security Act would be considered to be a benefit received by a person on the date of that person's discharge or release from active duty. Thus, only persons who are discharged on or after the date of enactment of the Committee bill and who would lose some existing eligibilities as a result of the enactment of this section of the Committee bill by virtue of failing to satisfy the minimum-service requirement would lose any entitlement to the deemed military wage credits.

Section 407

Would provide, in light of the provisions of section 406 of the Committee bill, that section 977 of title 10, United States Code, would be superseded.

Section 408

Would provide that funds in the Veterans' Administration readjustment benefits account (from which GI Bill and certain other benefits are paid) shall remain available for the payment of GI Bill correspondence training benefits, unless the Congress enacts, in a reconciliation bill pursuant to the Congressional Budget Act of 1974, Public Law 93-344, a provision amending section 1786(a)(3) of title 38 (which provides that restrictions on the availability of funds in that account for correspondence training benefits may be accomplished only by means of a provision enacted in express limitation of section 1786(a)(3)) so as to restrict such availability.

Section 409

Would amend section 5010 of title 38 to prohibit contracting out—that is, the conversion of an activity that is currently performed by employees of the VA's Department of Medicine and Surgery to an activity performed by employees of a private contractor, under certain circumstances. The restrictions imposed by this section would expressly not apply to certain elements of the VA's contract authority under various existing provisions of law.

Subsection (a) of section 409 would state the policy of the United States with respect to two important matters related to the enactment of this section: First, that the VA should maintain a comprehensive, nationwide health-care system for the direct provision of quality health-care services to eligible veterans; and, second, that such services should be provided through the most cost-effective means that are consistent with carrying out fully the statutory functions of the Department of Medicine and Surgery. Such functions are specified in section 410(a), (b), and (c) of chapter 73 of title 38, governing the operation of the Department of Medicine and Surgery.

Subsection (b) of section 409 would amend present section 5010, relating to the operation of medical facilities, to add a new subsection (c), as follows:

Paragraph (1) of new subsection (c) of section 5010: Would provide that, notwithstanding any provision of law other than specific provisions governing the VA's present contract authority as set forth in paragraph (2) of new subsection (c) (discussed below), no contract may be entered into by the Administrator as a result of which an activity at a VA health-care facility would be converted from Federal government performance to contractor performance unless two preconditions have been met: first, the VA Chief Medical Director has determined that the activity which is being considered for conversion is not a direct patient-care activity or an activity incident to direct patient care; and, second, in the case of an activity determined by the Chief Medical Director to be neither a direct patient-care activity nor an activity incident to direct patient care, the Administrator may enter into a contract for the conversion of that activity to private performance under the following circumstances: The Administrator's decision must be based upon a consideration of the advice of the Chief Medical Director, and upon the results of a cost-comparison study as described in present subsection (a)(5) of section 5010—that is, "any study comparing the cost of the provision by private contractors with the cost of the provision by the Veterans' Administrator of commercial or industrial products and services for the Department of Medicine and Surgery". For purposes of this new subsection (c), the cost-comparison study must be based on an estimate of the most efficient and cost-effective organization for the effective performance of the activity by Veterans' Administration employees. Finally, the Administrator must determine that, over the proposed duration of the contract, the combined cost to the Federal government of performing the activity under the contract and of conducting the cost-comparison study would be at least 10 percent lower than the cost of in-house performance by government employees, and he must determine, most importantly, that the contract would not result in any reduction of the quantity or quality of health-care services provided to eligible veterans at the facility involved.

New paragraph (1) would also provide that the Administrator's decision to contract out would, subject to the restrictions described above, be within the Administrator's sole discretion. This provision indicates the Committee's intention that the Administrator's decision should not be subject to judicial review by mandamus action or other legal action asserting the executory or mandatory nature of the Administrator's authority, but rather that it should be regarded as a policy matter reviewable only for an abuse of discretion, to the extent that review is available under law.

Paragraph (2) of new subsection (c) of section 5010: Would provide that the limitations on the Administrator's contract authority imposed under paragraph (1) of the new subsection (c) would not apply to any contract or agreement under various title 38 provisions: chapter 17, relating to hospital, domiciliary, and medical care (for example: section 601(4)(C) which authorizes contracts for hospital care and medcial services under certain circumstances, section 612A(e)(1) which authorizes contracts for readjustment counseling service under certain conditions, section 620(a) which authorizes contracts for nursing home care in community nursing homes, and section 620A(a)(1) which authorizes contracts with halfway houses and similar residential programs for alcohol and drug abuse rehabilitation); section 5011, providing for medical resource sharing agreements between the VA and the Department of Defense; section 5011A, providing for contracts with private medical facilities with respect to the furnishing of health-care services to members of the Armed Forces during a war or national emergency; section 5053, providing for contracts for specialized medical resources not otherwise feasibly available; or under section 686 of title 31, providing for the purchase by contract of supplies, equipment, or services by one government bureau or department from another. The limitations in new paragraph (1) will also not apply to any contract under section 4117 of title 38, providing for contracts for scarce medical specialist services, in those cases in which the Chief Medical Director determines that the contract is necessary to obtain services at a Veterans' Administration facility that could not otherwise be provided at that particular facility.

Title IV—Cost: The enactment of this provision is estimated to entail no significant cost.

Section 501

TITLE V—EFFECTIVE DATES

Would provide for effective dates for the provisions of the Committee bill.

Subsection (a) of section 501 would provide that the provisions of the Committee bill would be effective on October 1, 1982, except as provided in subsections (b), (c), (d), (e), and (f) of this section.

Subsection (b) of section 501 would provide that the provisions of sections 207, 208, 308(b), and 406 shall be effective on the date of enactment of the Committee bill.

Paragraph (1) of subsection (c) of section 501 would provide that the provisions of section 111 shall take effect on October 1, 1982.

Paragraph (2) of subsection (c) of section 501 would require the Administrator to make a lump-sum payment as soon as practicable after September 30, 1982, to each person who would have been entitled to benefits under section 410(b) of title 38, United States Code, if section 111 of the Committee bill had been in effect on October 1, 1978.

Subsection (d) of section 501 would provide that the amendment made by proposed section 403 shall apply with respect to burial and funeral expenses incurred after October 1, 1982.

Subsection (e) of section 501 would provide that the amendment made by proposed section 405 shall take effect on the one hundred and eigthieth day after the date of enactment of Committee bill.

Subsection (f) of section 501 would provide that the provisions of section 408 shall take effect on the day after the effective date of any law (i) that is enacted after August 19, 1982, and (ii) that the Administrator of Veterans' Affairs determines to be inconsistent with the provisions of such section.

TABULATION OF VOTES CAST IN COMMITTEE

In compliance with paragraph 7 of rule XXVI of the Standing Rules of the Senate, the following is a tabulation of votes cast in person or proxy by Members of the Committee on Veterans' Affairs at a August 19, 1982, meeting to consider provisions which were to be included in an original bill to be introduced subsequently by the Chairman. Such provisions, which were introduced by the Chairman in S. 2913, on September 16, 1982, were agreed to be reported to the Senate by a unanimous 12-0 vote, as follows:

YEAS—12	NAYS—0
Alan K. Simpson	
Strom Thurmond	
Robert T. Stafford	
Bob Kasten	
Jeremiah Denton	
Frank K. Murkowski	
Arlen Specter	
Alan Cranton	
Jennings Randolph	
Spark M. Matsunaga	
Dennis DeConcini	
George J. Mitchell	

Agency Report

The Veterans' Administration submitted letters dated February 19, March 12, and 24, 1982, and June 15, 1982, transmitting Administration-requested measures that were subsequently introduced as S. 2378, S. 2381, S. 2382, and S. 2388, on April 15, 1982; and S. 2747 on July 16, 1982. In response to a request by the Committee Chairman for comments on Amendment No. S. 2378 of July 30, 1982, report from the U.S. Small Business Administration.

Those reports follow:

Office of the
Administrator
of Veterans Affairs

Washington, D.C. 20420

Veterans
Administration

FEB 19 1982

Honorable George Bush
President of the Senate
Washington, D.C. 20510

Dear Mr. President:

I am enclosing a draft bill to amend title 38, United States Code, to increase the rates of disability compensation for disabled veterans; to increase the rates of dependency and indemnity compensation for surviving spouses and children of veterans; to discontinue duplicative Federal payments to certain veterans; to increase the level of disability required for the payment of dependents' allowances; to provide for other cost-saving improvements in veterans' programs; and for other purposes. I respectfully request that the bill be introduced and promptly enacted.

The bill, to be cited as the "Veterans' Disability Compensation and Survivors' Benefits Amendments of 1982," would accomplish the following purposes:

a. Increase the monthly rates of compensation payable to veterans for service-connected disabilities, as well as the additional amounts authorized those with dependents.

b. Increase the monthly rates of dependency and indemnity compensation (DIC) payable to surviving spouses and children of veterans whose deaths were service connected.

c. Increase the annual clothing allowance payable to certain veterans wearing or using prosthetic or orthopedic appliances.

d. Discontinue payments of additional compensation for individual unemployability in cases where veterans are receiving other Federal benefits by reason of disability or retirement.

e. Increase from 30 percent to 50 percent the level of disability required for the payment of dependents' allowances.

f. Provide that the commencement of the period of payment of benefits shall be the first day of the month following the month in which the award became effective.

g. Change the effective date for the reduction of benefits by reason of the loss of a dependent from the end of the year to the end of the month in which the loss occurred.

h. Provide for the rounding down, to the next lower dollar, of monthly pension benefit payments.

i. Limit eligibility for pension or additional pension based on a child's college attendance to those for whom benefits are payable as of September 1982 and phase in certain reductions in such pension.

We estimate enactment of the increased rates would result in fiscal year 1983 costs of $771 million, and comparable costs in succeeding years. Offsetting savings of an estimated $4.8 million in fiscal year 1982, $191.5 million in 1983, and $483.2 million in 1984 would be realized through enactment of the bill's other provisions.

Title I--Compensation and Dependency and Indemnity Compensation Rate Increases

Sections 101 through 106 would provide for an increase of 8.1 percent in monthly compensation and dependency and indemnity compensation (DIC) rates and in the annual clothing allowance.

The purpose of disability compensation, payable under chapter 11 of title 38, United States Code, is to provide relief from the impaired earning capacity of veterans disabled during, or as a result of, military service. Disability ratings are required by section 355 of title 38 to represent, to the extent practicable, the average impairment in earning capacity resulting from such disability in civil occupations. Special higher rates are payable for specified disabilities, and additional compensation is payable for dependents if the veteran's rating is 30 percent or higher.

DIC is payable under chapter 13 of title 38 to the surviving spouses and children of veterans whose deaths were service connected. Payments at DIC rates may also be made if the veteran's death was nonservice-connected but the veteran was rated as totally disabled for 10 years prior to death. Surviving spouses' DIC rates are based on the veteran's military pay grade. The surviving spouse may receive additional payments for the veteran's children under the age of 18, or if the surviving spouse is disabled. Children over age 18 who became helpless before reaching age 18 may receive DIC, as well as those age 18 to 23 attending approved educational institutions. If there is no surviving spouse, a child under the age of 18 may also receive DIC in the child's own right.

Under section 362 of title 38, the annual clothing allowance is payable to a service disabled veteran whose disability requires the use of a prosthetic device or orthopedic appliance that tends to tear or wear out the veteran's clothing.

Section 101 would increase, by 8.1 percent, the basic rates of compensation as well as the higher rates for certain specified disabilities. Section 102 would increase, by a like percentage, the rates of additional compensation for dependents, and section 103 the annual clothing allowance. Sections 104 through 106 would increase DIC rates by 8.1 percent.

The Veterans Administration has periodically recommended cost-of-living increases in compensation and DIC benefits to assure that our programs remain responsive to changing economic conditions. We support increases designed to offset inflation's erosion of the purchasing power of these benefits. We therefore propose a percentage increase consistent with the June 1, 1982 indexed cost-of-living adjustment in Social Security and VA pension benefits, an increase the Administration currently estimates will be 8.1 percent.

The increases proposed by Title I would be effective October 1, 1982, and would result in fiscal year 1983 costs of $771 million.

Title II--Compensation Amendments

Section 201 of the bill would amend section 3104 of title 38, relating to the prohibition against duplication of benefits. In the event an unemployable-rated veteran is receiving other Federal monetary benefits for disability or retirement, monthly compensation would be limited to the amount payable on the basis of (1) the veteran's schedular rating or (2) the amount payable on the basis of the unemployable (total) rating, reduced by the amount of other federal benefits for that month, whichever is the greater. This provision would primarily affect those unemployable-rated veterans in receipt of benefits under Title II of the Social Security Act whose schedular ratings for compensation purposes under Subpart B of 38 C.F.R. Part 4, generally known as the "rating schedule," range from 60 to 90 percent; however, veterans so rated who are in receipt of benefits under other Federal disability and retirement programs, such as Black Lung, railroad retirement, or civil service retirement, would also be affected.

The VA has authority under section 355 of title 38, United States Code, to adopt and apply a schedule of disability ratings from 10 to 100 percent. To the extent practicable, ratings are based on the average impairment of earning capacity resulting from such disabilities. It has long been recognized that, in individual instances, the schedular rating is inadequate to provide fair compensation for the effect of the veteran's disability on his or her employability. As stated in 38 C.F.R. § 4.16, it is the established policy of our Agency that all veterans who are unable to secure and follow a substantially gainful occupation by reason of service-connected disabilities shall be rated as totally disabled. The regulatory guidelines provide that, where such unemployability is shown and the veteran is rated 60 percent or more disabled, the total-disability rating may be assigned by regional office authorities. Other cases are to be submitted to Central Office for approval. As of September, 1981, approximately 106,600 veterans had been assigned such extra-schedular ratings. The additional compensation payable in individual cases amounts to several hundred dollars per month.

There is a longstanding policy against the concurrent payment of duplicate compensation benefits to veterans that is applicable where they are also entitled to military retired pay, Federal employees' workers compensation (FECA), or nonservice-connected VA pension. Under section 3105 of title 38, a military retiree must waive an equivalent portion of military retired pay in order to receive compensation. A Federal worker must elect between compensation and FECA benefits if for the same disability, and a veteran entitled to both compensation and pension must elect between the two benefits. These provisions prevent the pyramiding of Federal benefits based on military service.

The Social Security program had its inception in the 1930's as a means of insuring our citizens against the loss of earning capacity in old age. Later, the program was extended to include insurance against the risk of physical or mental disability resulting in unemployability, defined as inability to engage in substantially gainful activity. During World

War II, provisions were added to assure that service personnel were not deprived of Social Security credits because of military service. These provisions have been continued over the years, and the result has been that persons serving in the military receive earned Social Security credits for their military service as well as certain deemed credits to make up for any disparity between the coverage they would have had otherwise.

Of the 113,000 veterans receiving compensation based on individual unemployability in early 1981, 28,194--32 percent--were also receiving Social Security disability (SSDI) benefits. The average SSDI payment was $408 per month. Old age Social Security benefits (OASI) were received by 25,306--29 percent; the average payment was $324 per month. The amount of additional compensation by reason of the finding of unemployability currently ranges from $717 per month, if the veteran's schedular rating is 60 percent, to $451 per month, if the veteran's schedular rating is 90 percent. Veterans with dependents receive additional amounts.

Veterans receiving OASI, SSDI, or other Federal disability or retirement benefits generally do not have the intention or capability of re-entering the job market. In these cases, the veteran is already receiving one Federal benefit as a result of his or her condition. In our view, the duplication of benefits provided through the veterans' compensation program is an unwarranted expenditure of Federal Government funds. Especially today, when Federal budgetary restraint is critical to the restoration of the economy's vigor, the American taxpayer should not be expected to support the pyramiding of Federal benefits based on unemployability. At the same time, we recognize the commitment made to veterans suffering from service-connected disability. Thus, this proposal would reduce the amount of compensation payable to an unemployable-rated veteran by the amount of other Federal benefits received for that month, but never below the amount payable on the basis of the veteran's schedular rating.

This section would be effective October 1, 1983, and would result in fiscal year 1984 savings of $282.5 million by reductions applicable to persons on the rolls as of that date.

Section 202 of the bill would amend section 315 of title 38, relating to additional compensation for dependents, by increasing from 30 to 50 percent the level of disability required for payment of such compensation. Under current law, veterans rated 30 percent or more disabled receive additional compensation for dependents. Amounts are prorated according to the percentage of disability. For example, a veteran rated as 30-percent disabled receives 30 percent of the amount that would be paid to a totally disabled veteran with a like number of dependents.

Totally disabled veterans have been eligible for additional compensation for dependents since Civil War days. In 1944, veterans rated 60 percent or more disabled were made eligible for such compensation, and the requisite level of disability was reduced to 50 percent in 1949. This cut-off point was reasonable and fair. Veterans whose disabilities are rated at less than 50 percent are likely to be fully employed and in a position to provide for their families. Over the objections of this Agency, however, Congress reduced the level of required disability to 30 percent in 1978 for reasons bearing no relationship to these veterans' ability to provide for their families without Federal Government aid.

This poorly targeted liberalization added substantial short and long-range costs to the compensation program. The amounts individually payable are relatively small; for example, a veteran rated 30-percent disabled with a spouse and child currently receives an additional $35 per month. However, because the number of 30-percent and 40-percent disabled veterans receiving dependents' allowances is sizeable--approximately 314,400 in fiscal year 1981--the cost is substantial. The outlay for fiscal year 1981 was $111.7 million, and we estimate $124.2 million for this fiscal year. Projected costs for fiscal years 1983 and 1984 total $273.3 million. This provision, which would become effective October 1, 1982, would result in savings approximately equal to these projected costs.

Title III--Miscellaneous Amendments

Section 301 of the bill would add a new section 3011 to chapter 51 of title 38, relating to applications, effective dates, and payments. The new section, titled "Commencement of the Period of Payment Based on an Award," would provide for the commencement of the period for which compensation, dependency and indemnity compensation (DIC), and pension benefits are paid to be the first day of the month following the month in which the award is effective. Under section 3010 of title 38, awards become effective at various times. For example, a compensation award is effective on the day following the day of a veteran's discharge if the veteran's claim is filed within one year. Otherwise, the award is effective on the date the claim is filed. A DIC award is effective on the first day of the month in which the death occurred, if the survivor's claim is filed within one year;

otherwise, on the date the claim is filed. Other specific effective dates are provided for such contingencies as an increased rating for compensation purposes, allowance of a reopened claim involving the correction of military records, and the establishment of eligibility for benefits based on nonservice-connected disabilities. The effective date of an award is important for many title 38 purposes that are unrelated to the payment of benefits, for example, eligibility for certain health-care priorities, protection of service connection or disability ratings, or eligibility for other benefits such as vocational rehabilitation or automobile adaptive assistance. Under current law, the commencement of the period for payment of monetary benefits is coextensive with the effective date of the award, even though payment does not actually begin until later. Because the adjudicative process in almost all cases takes a reasonable amount of time, it is routine for the beneficiary's first payment to contain a retroactive component. For example, if a veteran is discharged on July 15 and files a compensation claim on August 15, even the promptest adjudication of the claim cannot occur overnight; assuming that extensive development is not required, the veteran may receive his first check by October 1, but it will be retroactive to July 16.

This proposal would simply defer commencement of the payment period until the first day of the month following the month in which the award itself became effective. This provision would not affect the effective date of the award for any purpose, or the special payment under section 3110 of title 38, United States Code, to certain surviving spouses. In the example cited above, payment would be retroactive to August 1, but the veteran's service-connected disability status would be established as of July 16, and the veteran's rating would relate back to that date, as would eligibility for any benefit derived from service-connected status. Similarly, if a veteran's death occurred on March 15, the survivor's DIC eligibility would relate back to the first day of March (if claim is filed within one year) but payment would commence April 1. However, in the event the veteran's payment for the month of March would have been greater than the survivor's monthly DIC payment, the survivor would receive the higher amount, as under current law.

This provision would be effective on July 1, 1982. It would be simple to administer, would achieve cost savings of approximately $28.8 million in fiscal year 1983, and would in almost all cases simply reduce the amount of the retroactive benefits portion of the first payment. The amount of reduction in most cases would be relatively small.

Section 302 would amend section 3012 of title 38, relating to effective dates for reductions and discontinuances, by providing that, where a benefit is to be reduced or discontinued by reason of a dependent's or survivor's marriage or death, or a veteran's divorce or annulment, the effective date for reduction or discontinuance shall be the last day of the month in which the event occurred. Under current law, this date is the last day of the calendar year. This means that a veteran or survivor may receive benefits intended for the support of dependents for as many as eleven months after the dependent has died or the beneficiary is no longer legally responsible for the dependent's support. This is unreasonable and inconsistent with other title 38 provisions relating to reductions and discontinuances. We anticipate savings of $3.2 million during fiscal year 1983 from this proposal, which would be effective October 1, 1982.

Section 303 of the bill would amend section 3020 of title 38, relating to the payment of benefits, to provide for the payment of need-based VA pension benefits (other than protected pension payable under section 306(b) of Public Law No. 95-588) in round dollar amounts.

Under current law, the VA through its administrative machinery certifies each month to the Treasury Department the exact amounts to be paid to its beneficiaries, and Treasury makes the actual disbursements. Many, if not most, pension payments are made in unrounded amounts. This provision would grant authority to the VA to round pension benefit payment amounts to the next lower dollar. For example, if the calculated amount to be paid is $60.39, payment would actually be certified and made (by check or electronic transfer) for $60.00. The savings from this proposal, effective July 1, 1982, would be approximately $10.8 million in fiscal year 1983 and comparable amounts in future fiscal years, yet the annual impact on any one beneficiary would be very small--much less than $12 in the typical case. Although technically different, this provision would be consistent with the recent amendment of the Social Security Act in the Omnibus Reconciliation Act of 1981 (Pub. L. No. 97-35).

Section 304 would amend section 501 of title 38, relating to definitions applicable to the nonservice-connected pension programs, to provide that, for the purpose of the improved pension program, the definition of "child" would include children up to the age of 19 if they are attending secondary school but would not include college students over the age of 18. This amendment, effective October 1, 1982, would thus terminate new pension eligibility based on a child's college attendance. It would not affect the eligibility of persons who, prior to reaching age 18, become permanently incapable of self-support or pension eligibility based on a child's college attendance in cases where the child is attending college as of September 1982. Under section 304, certain reductions and limitations would, however, be applied to those beneficiaries entitled as of September 30, 1982.

Under current law, a veteran or surviving spouse entitled to need-based improved pension benefits under chapter 15 of title 38 may receive additional benefits for children up to the age of 18. Also, section 306 pensioners--those receiving pension under section 306(a) of Pub. L. No. 95-588--may receive such benefits. Where there is no eligible surviving spouse, a veteran's needy surviving child may receive benefits in the child's own right, up to the age of 18. Where a "child" age 18 to 23, i.e., an adult student, is attending an approved educational institution, the dependents' allowance or the students' benefit continues during such attendance.

This provision would terminate the eligibility of veterans and surviving spouses for additional pension based on a child's college attendance during ages 18 to 23, as well as the eligibility of surviving children in the child's own right, when the child reaches age 18 after September 30, 1982. However, the eligibility of current beneficiaries (where the child has attained age 18 prior to September 30, 1982, and is enrolled in college for the month of September 1982) would be protected during the child's uninterrupted continuation of college attendance, subject to certain limitations. First, benefits would not be paid for the summer months--May through August, beginning in 1982. Second, that portion of the improved pension benefit attributable to the child, or the entire benefit if paid in the child's own right, would be held to the August 1981 level or a later month, if deemed appropriate in a particular case (for example, January 1982 might be appropriate if eligibility begins in December 1981), reduced by 25 percent for the months of September 1982 through April 1983, by 50 percent for the months of September 1983 through April 1984, and by 75 percent for the months of September 1984 through April 1985. No benefits would be payable after July 1985.

These provisions would apply both to pensioners (veterans, surviving spouses, and surviving children) under the improved pension program and those receiving protected pension under section 306(a) of Pub. L. No. 95-588.

Because it was felt that the payment of Social Security survivors' benefits to young adults attending college is not a well-targeted use of the limited funds available to the Social Security program (in view of the many other educational assistance programs available to college students), Congress recently, in section 2210 of the Omnibus Budget Reconciliation Act of 1981, eliminated new benefits for student beneficiaries 18 or older in post-secondary school and 19 or older in secondary school, effective in August 1982. Reductions in benefits, comparable to those we propose here, were also made for current student beneficiaries, to be phased in over several years.

This provision--which will enable pensioners to continue receiving additional benefits for their children up to age 19 attending secondary school but eliminate future derivative pension benefits for adult college students and phase in, over a period of time, reductions in benefits for current beneficiaries--is thus consistent in part with the change in the Social Security program. Federal, State, and private programs to provide assistance to needy college students are already in place and provide a targeted approach to meeting their needs.

The amendment to title 38 would be effective October 1, 1982, and the other limitations and reductions would take effect upon enactment. Savings are estimated as $13.4 million in fiscal year 1983.

Overall Costs and Savings

Title I of the draft bill, if enacted, would result in costs for each of the next 5 fiscal years estimated to be $771 million in fiscal year 1983, $776.1 million in fiscal year 1984, $779.8 million in fiscal year 1985, $783.9 million in fiscal year 1986, and $787.6 million in fiscal year 1987.

Titles II and III of the draft bill, if enacted, would result in considerable cost savings. Set forth below are projected savings for each of the next 5 fiscal years:

[in thousands of dollars]

	FY 1982	1983	1984	1985	1986	1987
Sec. 201	---	---	-282,500	-296,000	-310,200	-336,100
202	---	-135,300	-138,000	-140,600	-150,200	-152,800
301	-3,400	- 28,800	- 30,700	- 32,400	- 34,100	- 36,800
302	---	- 3,225	- 3,536	- 3,937	- 4,216	- 4,592
303	-1,400	- 10,800	- 10,400	- 10,100	- 9,900	- 9,700
304	---	- 13,400	- 18,100	- 21,700	- 24,600	- 22,600
Total	-4,800	-191,525	-483,236	-504,737	-533,216	-562,592

Advice has been received from the Office of Management and Budget that there is no objection to the submission of this draft bill to the Congress, and that its enactment would be in accord with the program of the President.

Sincerely,

Bob

ROBERT P. NIMMO
Administrator

OFFICIAL [illegible]

FEB 12 1982

97th Congress
Second Session

H.R. ________

A BILL

To amend title 38, United States Code, to increase the rates of disability compensation for disabled veterans; to increase the rates of dependency and indemnity compensation for surviving spouses and children of veterans; to discontinue duplicative payments to certain veterans; to increase the level of disability required for the payment of dependents' allowances; to provide for cost-saving improvements in veterans' programs; and for other purposes.

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled,

That this Act may be cited as the "Veterans' Disability Compensation and Survivors' Benefits Amendments of 1982".

(b) Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

TITLE I--COMPENSATION AND DEPENDENCY AND INDEMNITY COMPENSATION RATE INCREASES

RATES OF DISABILITY COMPENSATION

SEC. 101.(a) Section 314 is amended--

(1) by striking out "$58" in subsection (a) and inserting in lieu thereof "$63";

(2) by striking out "$107" in subsection (b) and inserting in lieu thereof "$116";

(3) by striking out "$162" in subsection (c) and inserting in lieu thereof "$175";

(4) by striking out "$232" in subsection (d) and inserting in lieu thereof "$251";

(5) by striking out "$328" in subsection (e) and inserting in lieu thereof "$355";

(6) by striking out "$413" in subsection (f) and inserting in lieu thereof "$446";

(7) by striking out "$521" in subsection (g) and inserting in lieu thereof "$563";

(8) by striking out "$604" in subsection (h) and inserting in lieu thereof "$653";

(9) by striking out "$679" in subsection (i) and inserting in lieu thereof "$734";

(10) by striking out "$1,130" in subsection (j) and inserting in lieu thereof "$1,222";

(11) by striking out "$1,403" and "$1,966" in subsection (k) and inserting in lieu thereof "$1,517" and "$2,125", respectively;

(12) by striking out "$1,403" in subsection (l) and inserting in lieu thereof "$1,517";

(13) by striking out "$1,547" in subsection (m) and inserting in lieu thereof "$1,672";

(14) by striking out "$1,758" in subsection (n) and inserting in lieu thereof "$1,900";

(15) by striking out "$1,966" each place it appears in subsections (o) and (p) and inserting in lieu thereof "$2,125";

(16) by striking out "$844" and "$1,257" in subsection (r) and inserting in lieu thereof "$912" and "$1,359", respectively;

(17) by striking out "$1,264" in subsection (s) and inserting in lieu thereof "$1,366"; and

(18) by striking out "$244" in subsection (t) and inserting in lieu thereof "$264".

(b) The Administrator of Veterans' Affairs may adjust administratively, consistent with the increases authorized by this section, the rates of disability compensation payable to persons within the purview of section 10 of Public Law 85-857 who are not in receipt of compensation payable pursuant to chapter 11 of title 38, United States Code.

3.

RATES OF ADDITIONAL COMPENSATION FOR DEPENDENTS

SEC. 102. Section 315(1) is amended--

(1) by striking out "$69" in clause (A) and inserting in lieu thereof "$75";

(2) by striking out "$116" in clause (B) and inserting in lieu thereof "$125";

(3) by striking out "$153" in clause (C) and inserting in lieu thereof "$165";

(4) by striking out "$192" and "$38" in clause (D) and inserting in lieu thereof "$208" and "$41", respectively;

(5) by striking out "$47" in clause (E) and inserting in lieu thereof "$51";

(6) by striking out "$86" in clause (F) and inserting in lieu thereof "$93";

(7) by striking out "$123" and "$38" in clause (G) and inserting in lieu thereof "$133" and "$41", respectively;

(8) by striking out "$56" in clause (H) and inserting in lieu thereof "$61";

(9) by striking out "$125" in clause (I) and inserting in lieu thereof "$135"; and

(10) by striking out "$105" in clause (J) and inserting in lieu thereof "$114".

CLOTHING ALLOWANCE FOR CERTAIN DISABLED VETERANS

SEC. 103. Section 362 is amended by striking out "$305" and inserting in lieu thereof "$330".

4.

RATES OF DEPENDENCY AND INDEMNITY COMPENSATION FOR SURVIVING SPOUSES

SEC. 104. (a)Subsection (a) of section 411 is amended to read as follows:

"(a) Dependency and indemnity compensation shall be paid to a surviving spouse, based on the pay grade of the person upon whose death entitlement is predicated, at monthly rates set forth in the following table:

"Pay grade	Monthly rate	"Pay grade	Monthly rate
E--1	$449	W--4	$643
E--2	$463	0--1	$568
E--3	$473	0--2	$586
E--4	$504	0--3	$627
E--5	$518	0--4	$663
E--6	$530	0--5	$731
E--7	$556	0--6	$823
E--8	$586	0--7	$891
E--9	$613[1]	0--8	$976
W--1	$568	0--9	$1,049
W--2	$590	0--10	$1,147[2]
W--3	$608		

(b) Subsection (b) of such section is amended by striking out "$48" and inserting in lieu thereof "$52".

(c) Subsection (c) of such section is amended by striking out "$125" and inserting in lieu thereof "$135".

(d) Subsection (d) of such section is amended by striking out "$62" and inserting in lieu thereof "$67".

"[1] If the veteran served as sergeant major of the Army, senior enlisted advisor of the Navy, chief master sergeant of the Air Force, sergeant major of the Marine Corps, or master chief petty officer of the Coast Guard, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $659.

"[2] If the veteran served as Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, or Commandant of the Marine Corps, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $1,230.".

RATES OF DEPENDENCY AND INDEMNITY COMPENSATION FOR CHILDREN

SEC. 105. Section 413 is amended--

(1) by striking out "$210" in clause (1) and inserting in lieu thereof "$227";

(2) by striking out "$301" in clause (2) and inserting in lieu thereof "$325";

(3) by striking out "$389" in clause (3) and inserting in lieu thereof "$421"; and

(4) by striking out "$389" and "$79" in clause (4) and inserting in lieu thereof "$421" and "$85", respectively.

RATES OF SUPPLEMENTAL DEPENDENCY AND INDEMNITY COMPENSATION FOR CHILDREN

SEC. 106. Section 414 is amended--

(1) by striking out "$125" in subsection (a) and inserting in lieu thereof "$135";

(2) by striking out "$210" in subsection (b) and inserting in lieu thereof "$227"; and

(3) by striking out "$107" in subsection (c) and inserting in lieu thereof "$116".

TITLE II--COMPENSATION AMENDMENTS

SEC. 201. Section 3104 is amended by adding at the end thereof the following new subsection:

> "(d) Where a rating of total disability based on individual unemployability resulting from service-connected disability has been assigned to any veteran in receipt of benefits under Title II of the Social Security Act or any other Federal program providing monetary benefits for disability or retirement, compensation under section 314 or 315 of this title for any month beginning after September 30, 1983, shall not exceed the greater of--

"(1) the amount payable to the veteran on the basis of the veteran's rating under Subpart B of Part 4 of title 38, Code of Federal Regulations, or

"(2) the amount payable to the veteran on the basis of the veteran's rating of total disability by reason of individual unemployability, reduced by the amount of benefits payable for that month under Title II of the Social Security Act or such other Federal program.".

SEC. 202. Section 315, as amended by section 102 of this Act, is further amended by striking out "30 per centum," both places it appears and inserting in lieu thereof "50 per centum,".

TITLE III--MISCELLANEOUS AMENDMENTS

SEC. 301. Chapter 51 of title 38, United States Code, is amended--

(a) by inserting after section 3010 the following new section

"§ 3011. Commencement of the period of payment based on an award

"(a) Notwithstanding section 3010 of this title or any other provision of law and except as provided in subsection (c) of this section, payment of monetary benefits based on an award or an increased award of compensation, dependency and indemnity compensation, or pension shall not be made for any period prior to the first day of the calendar month following the month in which the award became effective as provided under such section 3010 or other provision of law.

"(b) (1) During the period between the effective date of an award as provided under section 3010 of this title or other provision of law and the commencement of the period of payment based on such award as provided under subsection (a) of this section, an individual entitled to receive monetary benefits shall be deemed to be in receipt of such benefits for the purpose of all laws administered by the Veterans' Administration, except as provided in paragraph (2) of this subsection.

"(2) If any person who is in receipt of retired or retirement pay would also be eligible to receive compensation or pension upon the filing of a waiver of such pay in accordance with section 3105 of this title, such waiver shall not become effective until the first day of the month following the month in which such waiver is filed, and nothing in this section shall prohibit the receipt of retired or retirement pay for any period prior to such effective date.

"(c) This section shall apply to payments made pursuant to section 3110 of this title only if the monthly amount of dependency and indemnity compensation or pension payable to the surviving spouse is greater than the amount of compensation or pension the veteran would have received for the month in which such veteran's death occurred.", and

(b) by inserting in the table of sections at the beginning of such chapter, after the item relating to section 3010, the following new item:

"3011. Commencement of the period of payment based on an award.".

SEC. 302. Clause (2) of subsection (b) of section 3012 is amended by striking out "of the calendar year" and inserting in lieu thereof "of the month".

SEC. 303. Section 3020 is amended by adding at the end thereof the following new subsection:

"(f)(1) Notwithstanding any other provision of this title, any payment of monetary benefits under section 306(a) of the Veterans' and Survivors' Pension Improvement Act of 1978 (Public Law 95-588) or section 521, 541, or 542 of this title shall be made only in an amount that is a multiple of $1.

"(2) In determining the amount of any such payment, the Administrator shall--

"(A) first determine the amount payable without regard to paragraph (1) of this subsection and

"(B) if such amount is not a multiple of $1, then round such amount to the next lower multiple of $1.

> "(3) The amount payable to a person under paragraph (1) of this subsection shall be considered as the amount of that person's monetary benefits for the purpose of all laws administered by the Veterans' Administration, and no person shall have any claim to the difference between the amount determined under clause (A) of paragraph (2) of this subsection and the amount payable under paragraph (1).".

SEC. 304. (a) Section 501 is amended by adding at the end thereof the following new paragraph:

> "(5)(A) For the purposes of sections 521, 522, 541, 542, and 543 of this title, the term "child" shall be as defined in section 101(4) of this title except as provided in subparagraph (B) of this paragraph.
>
> "(B) The term "child" includes a child who is over the age of eighteen if such child is pursuing a program of education for the purpose of receiving a secondary school diploma and is under the age of nineteen but does not include a child over the age of eighteen who is not pursuing such a program unless such child before attaining the age of eighteen became permanently incapable of self-support.".

(b) The amendment made by subsection (a) of this section shall not apply to any child to or on behalf of whom pension or additional pension for the month of September 1982 is payable under section 521, 541, or 542 if such child has attained the age of eighteen years prior to October 1, 1982.

(c)(1) Notwithstanding any provision of section 521, 541, 542, or 3112, or section 306(a) of Public Law 95-588, and except as provided in paragraph (2) of this subsection, pension or additional pension payable to or on behalf of any child, including a child described by subsection (b) of this section, under section 521, 541, or 542 or section 306(a) of Public Law 95-588, on the basis of the child's pursuit of a course of instruction at an approved educational institution, shall--

> (A) not be paid for the months of May, June, July, and August, beginning with the month of May 1982;

9.

(B) not be paid for any month after July 1985;

(C) not exceed for any month the amount of the pension or additional pension (attributable to such child) for the month of August 1981 (or a later month if the Administrator deems a later month appropriate under the circumstances), reduced by an amount--

(i) during the months after July 1982 and before August 1983, equal to 25 percent of the benefit payable for August 1981 (or such later month);

(ii) during the months after July 1983 and before August 1984, equal to 50 percent of the benefit payable for August 1981 (or such later month); and

(iii) during the months after July 1984 and before August 1985, equal to 75 percent of the benefit payable for August 1981 (or such later month); and

(D) not be paid for any month after July 1982 if such pension or additional pension is discontinued at any time after July 31, 1982, by reason of such child's discontinuance of pursuit of a course of instruction at an approved educational institution.

(2) The limitations and reductions provided for under paragraph (1) of this subsection shall not apply to pension or additional pension payable to or on behalf of a child who--

(A) before attaining the age of eighteen became permanently incapable of self-support, or

(B) who, after attaining the age of eighteen and before attaining the age of nineteen, is pursuing a program of education for the purpose of receiving a secondary school diploma.

TITLE IV--EFFECTIVE DATES

SEC. 401. (a) The amendments made by sections 301 and 303 of this Act shall take effect on July 1, 1982.

10.

(b) The amendments made by Title I and sections 202, 302, and 304(a) of this Act shall take effect on October 1, 1982.

(c) The amendment made by section 201 of this Act shall take effect on October 1, 1983.

(d) The provisions of subsections (b) and (c) of section 304 of this Act shall take effect upon the date of the enactment of this Act.

Office of the
Administrator
of Veterans Affairs

Washington, D.C. 20420

Veterans
Administration

MARCH 12 1982

Honorable George Bush
President of the Senate
Washington, D.C. 20510

Dear Mr. President:

Enclosed is a draft bill to authorize the Administrator of Veterans Affairs to guarantee loans to refinance liens on mobile homes and simultaneously to purchase mobile home lots, which we request be introduced and receive favorable consideration.

Section 1819(a) of title 38, United States Code, currently authorizes veterans to purchase a new or used mobile home unit, a lot on which to place a previously acquired mobile home unit, or a combination of a new or used mobile home unit and a lot on which to place the unit. Section 1810(a)(5) authorizes veterans to refinance existing mortgage liens on conventional homes, but not mobile homes.

Although a veteran may own a mobile home unit outright, such unit is often located on a rented lot within a mobile home park. The VA has become aware that a significant number of rental mobile home parks are being converted into either a condominium or planned unit development form of ownership. When a park is so converted, the owners of mobile home units located within the park must either purchase the site or move their units to a new location at their own expense. Such a move can be quite expensive.

Lenders are often unwilling to finance the purchase of the lot unless the lender obtains a full security interest in the mobile home unit. Under these circumstances, a veteran would be precluded from using his or her VA mobile home loan entitlement (or remaining entitlement) to acquire a fee interest in the lot because current law does not permit refinancing mobile home loans.

This proposal is a natural extension of the mobile home program to assure that a veteran may keep his or her mobile home and keep it sited at its present location.

Costs associated with this proposal are estimated to be insignificant and will be absorbed by the VA.

We have been advised by the Office of Management and Budget that there is no objection to the submission of this draft bill to the Congress from the standpoint of the Administration's program.

Sincerely,

ROBERT P. NIMMO
Administrator

A BILL

To amend title 38, United States Code, to authorize the Administrator of Veterans' Affairs to guarantee loans to refinance liens on mobile homes and to purchase mobile home lots.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

That section 1819(a)(1) of title 38, United States Code, is amended by inserting at the end thereof the following new clause:

> "(G) To refinance existing liens which are secured of record on a mobile home unit owned and occupied by the veteran as the veteran's home, and simultaneously to purchase a lot on which such mobile home unit is or will be placed.".

SEC. 2. Section 1803(c)(3) of title 38, United States Code, is amended by inserting at the end thereof the following new clause:

> "(E) to refinance indebtedness and purchase a mobile home lot pursuant to section 1819(a)(1)(G) of this title, but only with respect to that portion of the loan used to refinance indebtedness and cover the costs of necessary site preparation.".

Office of the
Administrator
of Veterans Affairs

Washington DC 20420

Veterans
Administration

March 24, 1982

Honorable George Bush
President of the Senate
Washington, D.C. 20510

Dear Mr. President:

I am enclosing a draft bill to amend title 38, United States Code, to remove the bar against payment of Servicemen's Group Life Insurance (SGLI) and Veterans' Group Life Insurance (VGLI) proceeds in the event the claim is filed more than four years after the insured's death. The bill would also clarify that SGLI-VGLI proceeds may not escheat to a State.

When a SGLI or VGLI claim is not filed within four years of the insured's death, present section 770(c) provides that the proceeds shall "escheat" to the SGLI revolving fund established under section 769(d)(1). The legislative history of a comparable provision added in 1962 to the Federal Employees' Group Life Insurance (FEGLI) program indicates that Congress intended to prevent unclaimed FEGLI proceeds from escheating to the insured's State of domicile, a purpose that is applicable to unclaimed SGLI-VGLI proceeds as well. However, nothing in the legislative history of section 770(c) indicates that Congress specifically intended to bar the payment of proceeds to otherwise entitled claimants whose claims are not filed within the four-year period. This bill, by amending section 770(c) to delete the language pertaining to escheat, from which a bar to payment of such claims is implied, would permit payment regardless of when the claim is filed, and thus make the SGLI-VGLI program consistent in this regard with the National Service Life Insurance (NSLI) and United States Government life insurance (USGLI) programs.

Both the NSLI and USGLI programs also specifically prohibit the escheat of NSLI and USGLI proceeds to a State. Otherwise such an escheat could occur, for example, if the insured dies without any relatives, or if a named beneficiary without any relatives dies prior to payment. The bill adds specific language to section 770 to prohibit the escheat of SGLI-VGLI proceeds and, where the proceeds are to be paid to an estate, to require affirmative evidence that the end result will not be an escheat.

2.

Honorable George Bush

There are no costs associated with the draft bill, which would be effective October 1, 1982.

The Office of Management and Budget has advised that there is no objection from the standpoint of the Administration's program to the submission of this proposal to the Congress.

Sincerely,

Bob Nimmo

ROBERT P. NIMMO
Administrator

Enclosure

97th Congress
Second Session

H.R. ____

A BILL

To amend title 38, United States Code, to remove the bar against payment of Servicemen's Group Life Insurance and Veteran's Group Life Insurance proceeds in the event the claim is filed late and to clarify that such proceeds may not escheat to a State.

Be it enacted by the Senate and the House of Representatives of the United States in Congress assembled,

That section 770 of title 38, United States Code, is amended by--

(a) by amending subsection (c) by striking out the second sentence and

(b) by adding at the end the following new subsection:

"(h) Under no circumstances shall insurance payable under this subchapter escheat to a State, and payment shall not be made to the insured's estate or the estate of any beneficiary unless it is affirmatively shown that any sum to be paid will not escheat.".

Sec. 2. The amendment made by this Act shall take effect on October 1, 1982.

Office of the
Administrator
of Veterans Affairs

Washington DC 20420

Veterans
Administration

March 24, 1982

Honorable George Bush
President of the Senate
Washington, D.C. 20510

Dear Mr. President:

Transmitted herewith is a draft bill, "To amend chapter 19 of title 38, United States Code, to permit the unrestricted assignment of a beneficiary's interest in the proceeds of a Government Life Insurance policy in cases involving contested claims." It is requested that it be introduced and considered for enactment.

This measure would affect the portions of the insurance chapter relating to assignments in National Service Life Insurance and United States Government Life Insurance cases. The statutory provisions on assignments are contained in sections 718 and 753, respectively, and enumerate classes of relatives of the insured to whom the beneficiary may assign an interest in the proceeds. For NSLI, the class includes the insured's spouse, children, parents, siblings, and grandparents. The class for USGLI assignments encompasses the same group and also extends to aunts and uncles, nephews and nieces, and brothers-in-law and sisters-in-law of the insured. It should be noted that the insured is not restricted to a particular class in designating a beneficiary despite the limitations imposed on the beneficiary in disposing of the proceeds through assignment.

The current restrictions on assignments are considered to be administratively useful in cases where there is no question as to the designated beneficiary. The fact that a beneficiary may only direct payment to a close relative of the insured permits the use of a relatively simple administrative procedure for processing claims in those cases.

In many NSLI and USGLI cases, however, there is a contest between two or more persons as to the last designated beneficiary. These contests may not necessarily involve members of the class to which an assignment is possible, such as a former spouse with custody of children of the veteran or a close friend. It has been the experience of the Veterans Administration that contested claims to insurance proceeds may be resolved by an agreement between the claimants as to a division of the proceeds. An assignment from the named beneficiary to the contesting claimant of part of the proceeds is an efficient mechanism for effecting such an agreement and provides full acquittance of liability for the Veterans Administration. This method of resolution is not available, however, when the potential assignee is not within the class set forth in sections 718 and 753. Accordingly, claimants in those cases are forced to engage in time-consuming and expensive litigation, abandon their claims, or resort to an unsanctioned agreement, in which the Agency is not a participant, to divide the proceeds.

In view of the frequency with which similar situations occur, amendments to sections 718 and 753 are proposed in this draft bill which would permit assignments to be made in contested cases without regard to the restrictions now imposed. Thus, if this measure is enacted, extrajudicial settlement with full release of the Government's liability will be possible in virtually all contested cases when the parties have reached an amicable agreement regarding the proceeds.

The draft bill, if enacted, would not result in any additional cost to the Government.

The Office of Management and Budget has advised that there is no objection from the standpoint of the Administration's program to the submission of this proposal to the Congress.

Sincerely,

Bob

ROBERT P. NIMMO
Administrator

A BILL

To amend chapter 19 of title 38, United States Code, to permit the unrestricted assignment of a beneficiary's interest in the proceeds of a Government Life Insurance policy in cases involving contested claims.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That

(a) Section 718 of title 38, United States Code, is amended by inserting at the end thereof the following new subsection:

"(c) Except as to insurance granted under section 722(b) of this title, in any case involving a dispute between two or more persons, each of whom is claiming proceeds of a policy maturing on or after the date of enactment of this subsection, an assignment of all or any portion of the proceeds to a person other than a person specified in subsection (b) of this section is authorized to resolve such dispute if the proposed assignee claims such proceeds on the grounds that--

"(1) the insured during such insured's lifetime designated such proposed assignee as the beneficiary;

"(2) the insured contracted during such insured's lifetime with such proposed assignee to designate such proposed assignee as the beneficiary; or

> "(3) the insured during such insured's lifetime was directed in a judicial order or decree to designate as the beneficiary, or to retain as the designated beneficiary such proposed assignee.

Except in cases in which the insurance proceeds are payable in a lump sum, the designated contingent beneficiary, if any, must join in any such assignment by a person upon whose death or disqualification such contingent beneficiary's claim to the proceeds would be predicated."

(b) Section 753 of title 38, United States Code, is amended by--

(1) inserting "(a)" before "Any";

(2) inserting at the end thereof the following new subsection:

> "(b) In any case involving a dispute between two or more persons each of whom is claiming proceeds of a policy maturing on or after the date of enactment of this subsection, an assignment of all or any portion of the proceeds to a person other than a person specified in subsection (a) of this section is authorized to resolve such dispute if the proposed assignee claims such proceeds on the ground that--

> "(1) the insured during such insured's lifetime designated such proposed assignee as the beneficiary;
>
> "(2) the insured contracted during such insured's lifetime with such proposed assignee to designate such proposed assignee as the beneficiary; or
>
> "(3) the insured during such insured's lifetime was directed in a judicial order or decree to designate as the beneficiary, or to retain as the designated beneficiary such proposed assignee.

Except in cases in which the insurance proceeds are payable in a lump sum, the designated contingent beneficiary, if any, must join in any such assignment by a person upon whose death or disqualification such contingent beneficiary's claim to the proceeds would be predicated."

Office of the
Administrator
of Veterans Affairs

Washington, D.C. 20420

Veterans
Administration

JUNE 15 1982

Honorable George Bush
President of the Senate
Washington, D.C. 20510

Dear Mr. President:

Enclosed is a draft bill "To amend section 1622 of title 38, United States Code, to permit the Administrator to utilize the Post-Vietnam Era Veterans Education Account for the administration of the education assistance program authorized by section 2141 of title 10, United States Code." I request that this measure be introduced and promptly enacted.

In the enactment of Title IX of Public Law 96-342, the Congress established a new, limited program for providing educational assistance to service personnel who enlisted or reenlisted in the military service between October 1, 1980, and October 1, 1981. The purpose of this program was to assist in inducing recruitment and retention of personnel in the armed services. The Congress determined the funding for this new program would be provided by the Department of Defense, but the program would be administered by the VA. No provision was made, however, concerning the handling of the funding by VA.

On the other hand, in creating the contributory Post-Vietnam Era Veterans' Educational Assistance program in 1976, provision was made in section 1622 of title 38, United States Code, for the establishment of a deposit fund account in the Treasury termed the "Post-Vietnam Era Veterans Education Account." This allows the VA to deposit funds received from the participating military services into this account.

Our proposed measure would allow the VA to deposit funds received from the military services for the new so-called "901" program into the same account,.but would not allow commingling of the monies from the two programs.

The benefit accruing from this proposal is that the VEAP account is an established automated system which lends itself to the modifications required to run the 901 program. By allowing the VA to deposit 901 funds into the VEAP account, we would be able to use the fund for administration of both programs. The alternative to this would be the establishment of a completely manual system for the 901 program, one which on its face would be difficult and unwieldy to administer and thus unacceptable. To insure the integrity of proprietary funds being held for VEAP participants, money deposited for 901 participants would be posted to separate accounts. Thus, the funds would not lose their identity in the system.

Since individuals in the military will become eligible under the new 901 program on December 1, 1982, I urge that this proposal be introduced and given early favorable consideration by the Congress.

I have been advised by the Office of Management and Budget that enactment of this draft bill would be in accord with the program of the President.

Sincerely,

Bob Nimmo

ROBERT P. NIMMO
Administrator

Enclosure

A BILL

To amend section 1622 of title 38, United States Code, to permit the Administrator to utilize the Post-Vietnam Era Veterans Education Account for the administration of the education assistance program authorized by section 2141 of title 10, United States Code.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1622 of title 38, United States Code, is amended by adding at the end thereof the following new subsection:

"(e) The fund established under subsection (a) of this section may be used by the Administrator for the purpose of receiving and disbursing funds received from the Secretary of Defense for administering the education assistance program authorized by section 2141 of title 10."

U.S. SMALL BUSINESS ADMINISTRATION
WASHINGTON, D.C. 20416

OFFICE OF THE ADMINISTRATOR

JUL 30 1982

Honorable Alan K. Simpson
Chairman
Committee on Veterans' Affairs
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

This is in response to your request of July 7, 1982, for the views of the Small Business Administration on S. 2378. S. 2378 would amend Title 38, United States Code, to achieve various purposes: (1) to increase the rates of disability compensation for disabled veterans; (2) to increase dependency and indemnity compensation rates for surviving spouses and children of veterans; (3) to discontinue certain duplicative veterans' payments; (4) to increase the degree of disability required for payment of dependents' allowances; (5) to provide for cost-saving improvements in veterans' programs, and (6) for other purposes. This bill would appear to have no effect on small business concerns or on SBA.

Thank you for inviting SBA to comment on this matter.

Sincerely,

/S/ James C. Sanders

James C. Sanders
Administrator

In response to requests by the Committee Chairman for comments on Amendment No. 1909, the Committee received a July 30, 1982, letter from the U.S. Department of Justice; an August 6, 1982, letter from the Secretary of Defense; an August 6, 1982, letter from the Department of Housing and Urban Development; an August 17 and 18, 1982, letters from the Office of Personnel Management; an August 18, 1982, letter from the U.S. Small Business Administration; an August 19, 1982, letter from the Secretary of Health and Human Services; an August 19, 1982, letter from the U.S. Department of Agriculture; and a September 8, 1982, letter from the Committee on Veterans' Affairs.

Those letters follow:

U.S. Department of Justice

Immigration and Naturalization Service

ice of the Commissioner

Washington, D.C. 20536

CO 703.1511

30 JUL 1982

Honorable Alan K. Simpson
Chairman, Committee on Veterans' Affairs
United States Senate
Washington, D.C. 20510

RE: Comments on Amendment No. 1909 as
it relates to the Immigration & Nationality
Act.

Dear Senator ~~Simpson~~: Al

This is in response to your letter of July 7, 1982, concerning amendment number 1909 to S. 2378.

Sections 28 and 29 of the Immigration and Nationality Act are the sections of the Act that relate to immigration benefits a person in or having served in the armed forces may receive.

After carefully reviewing Amendment No. 1909, it appears that the amendment will have no impact or effect on the above sections of the Immigration and Nationality Act.

Thank you very much for requesting our views in this matter.

Sincerely,

Al

Alan C. Nelson
Commissioner

THE SECRETARY OF DEFENSE
WASHINGTON, THE DISTRICT OF COLUMBIA

6 AUG 1982

Honorable Alan K. Simpson
Chairman
Committee on Veterans' Affairs
United States Senate
Washington, D.C. 20510

Dear Alan:

This responds to your letter of July 21, 1982 in which you request comments on Amendment 1909 to S. 2378, the proposed "Veterans' Disability Compensation and Survivors' Benefits Amendments of 1982."

As stated in your letter, this amendment would supersede the provisions of section 977 of title 10, United States Code, and amend title 38, United States Code, to incorporate in that title a general two-year minimum-service requirement with respect to non-title 38 benefits, rights, and privileges (hereinafter referred to as "benefits") provided to veterans by reason of their active duty service.

The Department of Defense administers benefits programs for active and retired personnel and their dependents. Personnel who are discharged or who have otherwise severed their service connections are not the intended beneficiaries of these programs. Accordingly, the Department does not administer benefits to which section 977 of title 10 applies. Any other benefits that would accrue as a result of military service and could be affected by section 977 of title 10 are administered by agencies outside the Department of Defense.

For the reasons stated above, the Department of Defense has no objection to Amendment 1909 to S. 2378, the proposed "Veterans' Disability Compensation and Survivors Benefits Amendments of 1982."

Sincerely,

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, D.C. 20410

OFFICE OF GENERAL COUNSEL

AUG 6 1982

IN REPLY REFER TO:

Honorable Alan K. Simpson
Chairman, Committee on
Veterans' Affairs
United States Senate
Washington, D. C. 20510

Re. Amendment 1909 to S. 2378, 97th Congress (Simpson, et al.)

Dear Mr. Chairman:

Thank you for your letter requesting our views on the above legislation. We recently received your request in this office. We are now reviewing this bill to determine what interests or concerns this Department may have that should be reflected in our report on the bill.

Pending the final report, a preliminary review has disclosed the enclosed statutory and regulatory materials that describe program benefits that may be affected by the proposed amendment. The mortgage insurance programs are the only HUD programs likely to be affected by the proposed amendment. The home loan programs provide for a higher loan-to-value ratio and a lower downpayment for veterans purchasing or rehabilitating a home using a HUD-insured mortgage. The Rental Insurance and Interest Reduction Payment Section 236 Program gives a preference to the families of military personnel on active duty who meet the necessary income qualifications.

The proposed new section 3103A(d) states that, notwithstanding any other provision of law, a veteran would not be eligible for any benefits under Federal law by reason of a period of active duty less than two years or the full period for which such person was called or ordered to active duty, whichever is shorter. In order to qualify for the benefits of higher loan-to-value ratios and lower downpayments provided in HUD's home loan programs for homebuyers, the required period of active duty under current law is 90 days. The tenancy preference for the section 236 program is based on the military personnel's active duty status at the time of application, without any durational requirement.

Sincerely,

for Edward Murphy
Associate General Counsel for
Legislation and Regulations

Enclosures

Excerpts from the National Housing Act (Public Law 479, 73rd Congress, 48 Stat. 12, U.S.C. 1701 et seq.)

INSURANCE OF MORTGAGES

SEC. 203. (a) The Secretary is authorized, upon application by the mortgagee, to insure as hereinafter provided any mortgage offered to him which is eligible for insurance as hereinafter provided, and, upon such terms as the Secretary may prescribe, to make commitments for the insuring of such mortgages prior to the date of their execution or disbursement thereon.

(b) To be eligible for insurance under this section a mortgage shall—

(1) Have been made to, and be held by, a mortgagee approved by the Secretary as responsible and able to service the mortgage properly.

(2) Involve a principal obligation (including such initial service charges, appraisal, inspection, and other fees as the Secretary shall approve) in an amount not to exceed $67,500 in the case of property upon which there is located a dwelling designed principally for a one-family residence; or $76,000 in the case of a two-family residence (whether or not such one- or two-family residence may be intended to be rented temporarily for school purposes); or $92,000 in the case of a three-family residence, or $107,000 in the case of a four-family residence[27] except that the Secretary may increase the preceding maximum dollar amounts on an area-by-area basis to the extent the Secretary deems necessary, after taking into consideration the extent to which moderate and middle income persons have limited housing opportunities in the area due to high prevailing housing sales prices, but in no case may such limits, as so increased, exceed the lesser of (A) 133⅓ per centum of the dollar amount specified, or (B) in the case of a one-family residence, 95 per centum of the median one-family house prices in the area, as determined by the Secretary; in the case of a two-family residence, 107 per centum of such median price; in the case of a three-family residence, 130 per centum of such median price; or in the case of a four-family residence, 150 per centum of such median price; and (except[28] as provided in the next to the last sentence of this paragraph) not to exceed an amount equal to the sum of (i) 97 per centum[29] of $25,000 of the appraised value of the property, as of the date the mortgage is accepted for insurance, and (ii)[30] 95 per centum of such value in excess of $25,000. If the mortgagor is a veteran and the mortgage to be insured under this section covers property upon which there is located a dwelling designed principally for a one-family residence, the principal obligation may be in an amount equal to the sum of (i) 100 per centum of $25,000 of the appraised value of the property as of the date the mortgage is accepted for insurance, and (ii) 95 per centum of such value in excess of $25,000.[31] Notwithstanding any other provision of this section, in any case where the dwelling is not approved for mortgage insurance prior to the beginning of construction, such mortgage shall not exceed 90 per centum of the entire appraised value of the property as of the date the mortgage is accepted for insurance, unless (i) the dwelling was completed more than one year prior to the application for mortgage insurance, or (ii) the dwelling was approved for guaranty, insurance, or a direct loan under chapter 37 of title 38, United States Code, prior to the beginning of construction, or (iii)[32] the dwelling is covered by a consumer protection or warranty plan acceptable to the Secretary and satisfies all requirements which would have been applicable if such dwelling had been approved for mortgage insurance prior to the beginning of construction.

As used herein, the term "veteran" means any person who served on active duty in the armed forces of the United States for a period of not less than 90 days (or [illegible] certified by the Secretary of Defense as having performed extra-hazardous service), and who was discharged or released therefrom under conditions other than dishonorable.

ATTACHMENT A

(i)[52] The Secretary is authorized to insure under this section, any mortgage meeting the requirements of subsection (b) of this section, except as modified by this subsection, which involves a principal obligation not in excess of 75 per centum of the limit on the principal obligation applicable to a one-family residence under subsection (b) of this section[53] and not in excess of 97 per centum (or, in any case where the dwelling is not approved for mortgage insurance prior to the beginning of construction, unless the construction of the dwelling was completed more than one year prior to the application for mortgage insurance or the dwelling was approved for guaranty, insurance, or direct loan under chapter 37 of title 38, United States Code, prior to the beginning of construction, 90 per centum) of the appraised value of a property located in an area where the Secretary finds it is not practicable to obtain conformity with many of the requirements essential to the insurance of mortgages on housing in built-up urban areas, upon which there is located a dwelling designed principally for a single-family residence: *Provided*, That if the mortgagor is not the occupant of the property at the time of insurance, the principal obligation of the mortgage shall not exceed 85 per centum of the appraised value of the property: *Provided further*, That the Secretary finds that the property with respect to which the mortgage is executed is an acceptable risk, giving consideration to the need for providing adequate housing for families of low and moderate income particularly in suburban and outlying areas or small communities: *Provided further*, That under the foregoing provisions of this subsection the Secretary is authorized to insure any mortgage issued with respect to a farm home on a plot of land two and one-half[54] or more acres in size adjacent to an all-weather public road.[54]

Excerpts from Title 24 - Housing and Urban Development Regulations, Sections 203.18 and 203.19

§ 203.18 Maximum mortgage amounts.

(a) *Occupant mortgagors.* A mortgage executed by a mortgagor who is an occupant of the property shall not exceed the lesser of the amounts in paragraphs (a)(1) and (2) or (a)(1) and (3) of this section as follows:

(1) *Dollar limitation.* A dollar limitation of:

(i) $67,500 for a one-family residence.

(ii) $76,000 for a two-family residence.

(iii) $92,000 for a three-family residence.

(iv) $107,000 for a four-family residence.

(2) *Loan-to-value limitation—approval prior to construction.* A loan-to-value limitation of 97 percent of the first $25,000 of the appraised value of the property as of the date the mortgage is accepted for insurance (100 percent of such value or the sum of such value not in excess of $25,000 and the items of pre-paid expense approved by the Commissioner minus $200, whichever appraisal amount or sum is the lesser, in the case of a mortgagor qualifying as a veteran) and 95 percent of such value in excess of $25,000, if the mortgage covers a dwelling which:

(i) Was approved for mortgage insurance prior to the beginning of construction, or

(ii) Was approved for guaranty, insurance, or a direct loan by the Administrator of Veterans Affairs prior to the beginning of construction, or

(iii) Was completed more than one year prior to the date of the application for mortgage insurance, or

(iv) Is covered by a consumer protection or warranty plan acceptable to the Secretary and satisfies all requirements which would have been applicable if such dwelling had been approved for mortgage insurance prior to the beginning of construction.

(3) *Loan-to-value limitation—no prior approval.* A loan-to-value limitation of 90 percent of the entire appraised value of the property, as of the date the mortgage is accepted for insurance, if the dwelling does not meet the requirements in the introductory text of paragraph (a)(2) of this section.

(b) *Veteran qualifications.* The special veteran terms provided in paragraph (a) of this section shall only be applicable to a mortgage covering a single family dwelling executed by a mortgagor who submits to the Commissioner one of the following certifications:

(1) A Certificate of Veteran Status from the Veterans Administration establishing that he has served 90 days or more on active duty in the armed forces (U.S. Army, Navy, Marine Corps, Air Force, Coast Guard, the Army Reserve, the Naval Reserve, the Marine Corps Reserve, the Air Force Reserve, the Coast Guard Reserve, the National Guard of the United States and the Air National Guard of the United States) of the United States and was discharged or released therefrom under conditions other than dishonorable.

(2) A certificate issued by the Secretary of Defense establishing that the mortgagor performed extra hazardous service while serving in the armed forces for a period of less than 90 days.

§ 203.19 Mortgagor's minimum investment.

(a) At the time the mortgage is insured, the mortgagor shall have paid in cash or its equivalent the following minimum amount:

(1) In all cases (except those involving a veteran meeting the requirements of § 203.18(a)(3)), the minimum investment shall be at least 3 percent of the Commissioner's estimate of the cost of acquisition or such larger amount as the Commissioner may determine.

(2) In a case involving a veteran meeting the requirements of § 203.18(a)(3), the minimum investment shall be $200 which may include settlement costs, initial payments for taxes, hazard insurance premiums, mortgage insurance premiums, and other prepaid expenses as approved by the Commissioner.

ATTACHMENT B

REHABILITATION AND NEIGHBORHOOD CONSERVATION HOUSING INSURANCE

SEC. 220.[143] (a) The purpose of this section is to aid in the elimination of slums and blighted conditions and the prevention of the deterioration of residential property by supplementing the insurance of mortgages under sections 203 and 207 of this title with a system of loan [144] and mortgage insurance designed to assist the financing required for the rehabilitation of existing dwelling accommodations and the construction of new dwelling accommodations where such dwelling accommodations are located in an area referred to in paragraph (1) of subsection (d) of the section.

(b) The Secretary is authorized, upon application by the mortgagee, to insure, as hereinafter provided, any mortgage (including advances during construction on mortgages covering property of the character described in paragraph (3)(B) of subsection (d) of this section) which is eligible for insurance as hereinafter provided, and, upon such terms and conditions as he may prescribe, to make commitments for the insurance of such mortgages prior to the date of their execution or disbursement thereon.

(c) As used in this section, the terms "mortgage," "first mortgage," "mortgagee," "mortgagor," "maturity date," and "State" shall have the same meaning as in section 201 of this Act.

(d) to be eligible for insurance under this section a mortgage shall meet the following conditions:

(1) The mortgaged property shall—

(A)[145] be located in (i) the area of a slum clearance and urban redevelopment project covered by a Federal-aid contract executed or a prior approval granted, pursuant to title I of the Housing Act of 1949 before the effective date of the Housing Act of 1954, or (ii) an urban renewal area (as defined in title I of the Housing Act of 1949, as amended) or (iii) the area of an urban renewal project assisted under section 111 of the Housing Act of 1949, as amended, or (iv) an area in which a program of concentrated code enforcement activities is being carried out pursuant to section 117 of the Housing Act of 1949, or (v) an area designated by the Secretary, where concentrated housing, physical development, and public service activities are being or will be carried out in a coordinated manner, pursuant to a locally developed strategy for neighborhood improvement, conservation or preservation:[146] *Provided*, That, in the case of an area within the purview of clause (i) or (ii) of this subparagraph, a redevelopment plan or an urban renewal plan (as defined in title I of the Housing Act of 1949, as amended), as the case may be, has been approved for such area by the governing body of the locality involved and by the Secretary of Housing and Urban Development and the Secretary has determined that such plan conforms to a general plan for the locality as a whole and that there exist the necessary authority and financial capacity to assure the completion of such redevelopment or urban renewal plan: *And provided further*, That, in the case of an area within the purview of clause (iii) of this subparagraph, an urban renewal plan (as required for projects assisted under such section 111) has been approved for such area by such governing body and by the Secretary, and the Secretary has determined that such plan conforms to definite local objectives respecting appropriate land uses, improved traffic, public transportation, public utilities, recreational and community facilities, and other public improvements, and that there exist the necessary authority and financial capacity to assure the completion of such urban renewal plan, and

(B) meet such standards and conditions as the Secretary shall prescribe to establish the acceptability of such property for mortgage insurance under this section.

(2) The mortgaged property shall be held by—

(A) A mortgagor approved by the Secretary, and the Secretary may in his discretion require such mortgagor to be regulated or restricted as to rents or sales, charges, capital structure, rate of return and methods of operation, and for such purpose the Secretary may make such contracts with and acquire for not to exceed $100 stock or interest in any such mortgagor as the Secretary may deem necessary to render effective such restriction or regulations. Such stock or interest shall be paid for out of the General Insurance Fund and shall be redeemed by the mortgagor at par upon the termination of all obligations of the Secretary under the insurance; or

(B) by Federal or State instrumentalities, municipal corporate instrumentalities of one or more States, or limited dividend or redevelopment or housing corporations or other legal entities restricted by or under Federal or State laws or regulations of State banking or insurance departments as to rents, charges, capital structure, rate of return, or methods of operation.

(3)[147] The mortgage shall—

(A)(i) involve a principal obligation (including such initial service charges, appraisal, inspection, and other fees as the Secretary shall approve) in an amount not to exceed the applicable maximum principal obligation which may be insured in the area under section 203(b); or in the case of a dwelling designed principally for residential use for more than four families (but not exceeding such additional number of family units as the Secretary may prescribe) the applicable maximum principal obligation secured by a four-family residence which may be insured in the area under section 203(b)[148] plus not to exceed $9,165[149] for each additional family unit in excess of four located on such property; and not to exceed an amount equal to the sum to (1) 97 per centum (but, in any case where the dwelling is not approved for mortgage insurance prior to the beginning of construction, unless the construction of the dwelling was completed more than one year prior to the application for mortgage insurance, 90[150] per centum) of $25,000[151] of the Secretary's estimate of replacement cost of the property, as of the date the mortgage is accepted for insurance, and (2) 95 per centum of such value in excess of $25,000[151]: *Provided,* That in the case of properties other than new construction, the foregoing limitations upon the amount of the mortgage shall be based upon the sum of the estimated cost of repair and rehabilitation and the Secretary's estimate of the value of the property before repair and rehabilitation rather than upon the Secretary's estimate of the replacement cost: *Provided further,*[152] That if the mortgagor is a veteran and the mortgage to be insured under this section covers property upon which there is located a dwelling designed principally for a one-family residence, the principal obligation may be in an amount equal to the sum of (1) 100 per centum of $25,000[153] of the Secretary's estimate of replacement cost of the property, as of the date the mortgage is accepted for insurance and (2) 95 per centum of such value in excess of $25,000.[153] As used herein, the term "veteran" means any person who served on active duty in the Armed Forces of the United States for a period of not less than ninety days (or as certified by the Secretary of Defense as having performed extrahazardous service), and who was discharged or released therefrom under conditions other than dishonorable;

(ii)[154] in a case where the mortgagor is not the occupant of the property and intends to hold the property for rental purposes, have a principal obligation in an amount not to exceed 93 per centum of the amount computed under the provisions of clause (i);

(iii) in a case where the mortgagor is not the occupant of the property and intends to hold the property for the purpose of sale, have a principal obligation in an amount not to exceed 85 per centum of the amount computed under the provisions of clause (i), or in the alternative, in an amount equal to the amount computed under the provisions of clause (i) if the mortgagor and mortgagee assume responsibility in a manner satisfactory to the Secretary for the reduction of the mortgage by an amount not less than 15 per centum of the outstanding principal amount thereof, or by such greater amount as may be required to meet the limitations of clause (i), in the event the mortgaged property is not, prior to the due date of the eighteenth amortization payment of the mortgage, sold to a purchaser acceptable to the Secretary who is the occupant of the property and who assumes and agrees to pay the mortgage indebtedness; and

(iv) in no case involving refinancing (except as provided in clause (iii)) have a principal obligation in an amount exceeding the sum of the estimated cost of repair and rehabilitation and the amount (as determined by the Secretary) required to refinance existing indebtedness secured by the property or project, plus any existing indebtedness incurred in connection with improving, repairing, or rehabilitating the property; or

(B)(i)[155]

(ii) not exceed 90 per centum of the amount which the Secretary estimates will be the replacement cost of the property or project when the proposed improvements are completed (the replacement cost[156] of the property or project may include the land, the proposed physical improvements, utilities within the boundaries of the property or project, architect's fees, taxes, and interest during construction, and other miscellaneous charges incident to construction and approved by the Secretary, and shall include an allowance[157] for builder's and sponsor's profit and risk of 10 per centum of all of the foregoing items except the land unless the Secretary, after certification that such allowance is unreasonable, shall by regulation prescribe a lesser percentage): *Provided,*[158] That in the case of properties other than new construction, the foregoing limitations upon the amount of the mortgage shall be based upon the sum of the estimated cost of repair and rehabilitation and the Secretary's estimate of the value of the property before repair and rehabilitation rather than upon the Secretary's estimate of the replacement cost: *Provided further,* That in no case involving refinancing shall such mortgage exceed such estimated cost

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specting appropriate land uses, improved traffic, public transportation, public utilities, recreational and community facilities and other public improvements, and there exists the necessary authority and financial capacity to insure completion of such urban renewal plan.

§ 220.15 Standards and conditions of acceptability.

The mortgaged property shall meet such standards and conditions as the Commissioner shall prescribe to establish the acceptability of such property for mortgage insurance. These shall include standards and conditions designed to restore the quality of the area to a condition which would justify mortgage insurance.

§ 220.20 Dwelling units on property.

At the time the mortgage is insured, there shall be located on the mortgaged property a dwelling designed principally for residential use of not more than 11 families. Such dwellings may be connected with other dwellings by a party wall or otherwise. Any such dwelling shall be constructed or rehabilitated pursuant to an urban renewal plan approved by the Secretary as provided in section 220(d)(1)(A) of the National Housing Act, as amended.

§ 220.25 Maximum mortgage amounts—dollar limitation.

The mortgage shall involve a principal obligation not in excess of the dollar limitation set forth in § 203.18(a)(1) or § 203.18(b) plus not to exceed $9,165 for each additional unit in excess of four.

(Sec. 211 of the National Housing Act (12 U.S.C. 1709, 1715))

[45 FR 76389, Nov. 18, 1980]

§ 220.30 Maximum mortgage amounts—loan-to-value limitation.

(a) *Occupant mortgagors.* A mortgage executed by a mortgagor who is an occupant of the property shall not exceed the following:

(1) *New construction—prior approval.* If the mortgage covers a dwelling which is approved for mortgage insurance prior to the beginning of construction, the sum of the following percentages of the Commissioner's estimate of the replacement cost of the property as of the date the mortgage is accepted for insurance:

(i) 97 percent of the first $25,000 of such value (100 percent of $25,000 of such value or the sum of such value not in excess of $25,000 and the items of prepaid expense approved by the Commissioner minus $200, whichever appraisal amount or sum is the lesser, in the case of a mortgagor qualifying as a veteran).

(ii) 95 percent of such estimate in excess of $25,000.

(iii) 80 percent (85 percent in the case of a mortgagor qualifying as a veteran) of the amount of such estimate in excess of $35,000.

(2) *New construction—no prior approval.* If the mortgage covers a new dwelling under construction which is approved for mortgage insurance after the beginning of construction, 90 percent of the Commissioner's estimate of the replacement cost of the property as of the date the mortgage is accepted for insurance:

(i) 90 percent of the first $35,000 of such estimate.

(ii) 80 percent (85 percent in the case of a mortgagor qualifying as a veteran) of the amount of such estimate in excess of $35,000.

(3) *Existing construction—prior approval.* If the mortgage covers an existing dwelling approved for mortgage insurance prior to the beginning of construction or the construction of which has been completed for more than 1 year, the sum of the Commissioner's estimate of the cost of repair or rehabilitation added to the Commissioner's estimate of the value of the property before rehabilitation in the following percentages:

(i) 97 percent of the first $25,000 of the sum of such estimates (100 percent of $25,000 of the sum of such estimates or an amount derived by adding to the sum of such estimates not in excess of $25,000 the items of prepaid expense approved by the Commissioner and deducting $200, whichever appraisal amount or total amount is the lesser, in the case of a mortgagor qualifying as a veteran).

(ii) 95 percent of such estimates in excess of $25,000.

(iii) 80 percent (85 percent in the case of a mortgagor qualifying as a veteran) of the sum of such estimates in excess of $35,000.

(4) *Existing construction—no prior approval.* If the mortgage covers an existing dwelling which was not approved for mortgage insurance prior to the beginning of construction and the construction of which has been completed less than 1 year, 90 percent of the sum of the Commissioner's estimate of the cost of repair or rehabilitation added to the Commissioner's estimate of the value of the property before rehabilitation.

(5) *Refinancing.* In a case under paragraph (a) (3) or (4) of this section involving the refinancing of an existing indebtedness, the sum of the following:

(i) The estimated cost of repair and rehabilitation.

(ii) The amount (as determined by the Commissioner) required to refinance the existing indebtedness secured by the property.

(iii) Any existing indebtedness (as determined by the Commissioner) incurred in connection with improving, repairing, or rehabilitating the property.

(b) *Veteran qualifications.* The special veteran terms provided in paragraph (a) of this section shall only be applicable to a mortgage covering a single family dwelling executed by a mortgagor who submits to the Commissioner one of the following certifications:

(1) A Certificate of Veteran Status from the Veterans Administration establishing that he has served 90 days or more on active duty in the Armed Forces (U.S. Army, Navy, Marine Corps, Air Force, Coast Guard, the Army Reserve, the Naval Reserve, the Marine Corps Reserve, the Air Force Reserve, the Coast Guard Reserve, the National Guard of the United States and the Air National Guard of the United States) of the United States and was discharged or released therefrom under conditions other than dishonorable.

(2) A certificate issued by the Secretary of Defense establishing that the mortgagor performed extra hazardous service while serving in the Armed Forces for a period of less than 90 days.

(c) *Nonoccupant mortgagors.* (1) A mortgage, executed by a mortgagor who is not the occupant of the property and who certifies to the Commissioner that he intends to hold the property for rental purposes, shall not exceed 93 percent of any amount available to a nonveteran under paragraphs (a) (1) through (4) of this section, or 100 percent of an amount computed under paragraph (a)(5) of this section.

(2) A mortgage, executed by a mortgagor who is not the occupant of the property and who certifies to the Commissioner that he intends to hold the property for the purpose of the sale, shall not exceed:

(i) 85 percent of any amount available to a nonveteran under paragraphs (a) (1) through (4) of this section, or 100 percent of any amount computed under paragraph (a)(5) of this section.

(ii) 100 percent of any amount available to a nonveteran under paragraphs (a) (1) through (4) of this section, without taking into consideration the refinancing limitations in paragraph (a)(5) of this section, if the mortgage covers a one- or two-family residence and the Commissioner is furnished with certificates indicating that:

(*a*) The mortgagor will not rent (except for a rental term of not less than 30 days and not more than 60 days), sell (except where the insured mortgage is paid in full as an incident of the sale), or occupy the property prior to the 18th amortization payment of the mortgage, except with the prior written approval of the Commissioner.

(*b*) There has been deposited in an escrow, trust, or special account not less than 15 percent of the original principal amount of the mortgage proceeds or such additional amount as may be necessary to reduce the remaining principal to an amount not exceeding the sum of the estimated cost of repairs and rehabilitations, and the amount required to refinance any existing indebtedness determined by the Commissioner to have been incurred in connection with improving, repairing or rehabilitating the property.

mortgage. After the acquisition of the mortgage by the Secretary the mortgagee shall have no further rights, liabilities, or obligations with respect to the mortgage. The appropriate provisions of sections 204 and 207 relating to the issuance of debentures shall apply with respect to debentures issued under this subsection, and the appropriate provisions of sections 204 and 207 relating to the rights, liabilities, and obligations of a mortgagee shall apply with respect to the Secretary when he has acquired an insured mortgage under this subsection, in accordance with and subject to regulations (modifying such provisions to the extent necessary to render their application for such purposes appropriate and effective) which shall be prescribed by the Secretary, except that as applied to mortgages insured under this section (1) all references in section 204 to the Mutual Mortgage Insurance Fund or the Fund shall be construed to refer to the General Insurance Fund, and (2) all references in section 204 to section 203 shall be construed to refer to this section (g).[315]

MORTGAGE INSURANCE FOR CONDOMINIUMS

SEC. 234.[316] (a) The purpose of this section is to provide an additional means of increasing the supply of privately owned dwelling units where, under the laws of the State in which the property is located, real property title and ownership are established with respect to a one-family unit which is part of a multifamily project.

(b) The terms "mortgage," "mortgagee," "mortgagor," "maturity date," and "State" shall have the meanings respectively set forth in section 201, except, that the term "mortgage" for the purpose of subsection (c) may include a first mortgage given to secure the unpaid purchase price of a fee interest in, or long-term leasehold interest in, a one-family unit in a multifamily project, including a project in which the dwelling units are attached, semi-detached, or detached,[317] and an undivided interest in the common areas and facilities which serve the project where the mortgage is determined by the Secretary to be eligible for insurance under this section. The term "common areas and facilities" as used in this section shall be deemed to include the land and such commercial, community, and other facilities as are approved by the Secretary.

(c) The Secretary is authorized, in his discretion and under such terms and conditions as he may prescribe (including the minimum number of family units in the project which shall be offered for sale and provisions for the protection of the consumer and the public interest), to insure any mortgage covering a one-family unit in a multifamily project and an undivided interest in the common areas and facilities which serve the project if (1) the mortgage meets the requirements of this subsection and of section 203(b), except as that section is modified by this subsection, (2) the project is or has been covered by a mortgage insured under any section (except section 213(a) (1) and (2)) of this Act or the project was approved for a guarantee, insurance, or a direct loan under chapter 37 of title 38, United States Code, notwithstanding any requirements in any such section that the project be constructed or rehabilitated for the purpose of providing rental housing:[318] *Provided,*[319] That a one-family unit in a multifamily project involving eleven or less units, or twelve or more units in the case of a multifamily project the construction of which was completed more than a year prior to the application for mortgage insurance, shall be eligible for insurance without having been covered by a project mortgage, and (3) the mortgagor is acquiring, or has acquired, a family unit covered by a mortgage insured under this subsection for his own use and occupancy and will not own more than four one-family units covered by mortgages insured under this subsection. Any project proposed to be constructed or rehabilitated after the date of enactment of the Housing Act of 1961[320] with the assistance of mortgage insurance under this Act, where the sale of family units is to be assisted with mortgage insurance under this subsection, shall be subject to such requirements as the Secretary may prescribe. To be eligible for insurance pursuant to this subsection, a mortgage shall (A) involve a principal obligation in an amount not to exceed $67,500,[321] except that the Secretary may increase such maximum dollar amount on an area-by-area basis to the extent the Secretary deems necessary, after taking into consideration the extent to which moderate and middle income persons have limited housing opportunities in the area due to high prevailing housing sales prices, but in no case may such limit, as so increased, exceed the lesser of 111 per centum of such amount or 95 per centum of the median one-family house price in the area, as determined by the Secretary;[321] and not to exceed the sum of (i) 97 per centum (100 per centum if the mortgagor is a veteran as defined under section 203(b)(2) of this Act)[322] of $25,000 of the appraised value of the property as of the date the mortgage is accepted for insurance and (ii) 95 per centum of such value in excess of $25,000,[323] and (B) have a maturity satisfactory to the Secretary, but not to exceed, in any event, thirty-five years from the date of the beginning of amortization of the mortgage.[324] In determining the amount of a mortgage in the case of a nonoccupant mortgagor the reference to paragraph (2) of section 203(b) in section 203(b)(8) shall be construed to refer to the preceding sentence in this subsection. The mortgage shall contain such provisions as the Secretary determines to be necessary for the maintenance of common areas and facilities and the multifamily project. The mortgagor shall have exclusive right to the use of the one-family unit covered by the mortgage and, together with the owners of other units in the mulitfamily project, shall have the right to the use of the common areas and facilities serving the project and the obligation of maintaining all such common areas and facilities. The Secretary may require that the rights and obligations of the mortgagor and the owners of other dwelling units in the project shall be subject to such controls as he determines to be necessary and feasible to promote and protect individual owners, the multifamily project and its occupants. For the purposes of this subsection, the Secretary is authorized in his discretion and under such terms and conditions as he may prescribe to permit one-family units and interests in common areas and facilities in multifamily projects covered by mortgages insured under any section of this Act other than section 213(a) (1) and (2) to be released from the liens of those mortgages.

(d)[325] In addition to individual mortgages insured under subsection (c), the Secretary is authorized, in his discretion and under such terms and conditions as he may prescribe, to insure blanket mortgages (including advances on such mortgages during construction) which cover multifamily projects to be constructed or rehabili-

(1) The termination by payment in full of the mortgage or by voluntary termination of the insurance contract covering any HUD/FHA-insured or Secretary-held mortgage on the project, unless the Commissioner determines that his/her interests and those of the individuals purchasing the family units are best served by not requiring the termination of the insurance or payment in full of the mortgage.

(2) On release of a family unit from the project mortgage, payment shall be made on the outstanding balance of the project mortgage in an amount equal to the share of the balance determined by HUD to be attributable to the family unit.

(3) The conveyance of family units, equal in value to at least 70 percent (or such lesser percentage as the Secretary may prescribe) of the total value of all units to owners approved by the FHA.

(4) The project mortgagee shall certify notwithstanding any provisions of the mortgage covering prepayment, that no charge is contemplated or has been collected for prepayment in full of the project mortgage.

(g) *Projects not covered by an insured or Secretary-held mortgage.* Projects which are not covered by an insured project or Secretary-held mortgage and which have not been approved by the Veterans Administration for its guaranty, insurance or direct loan programs shall meet the following additional requirements:

(1) Except with the approval of the Commissioner for the purpose of constructing or converting the project in phases or stages, any special right of the declarant (as declarant and not as a unit owner) to do any and all of the following has expired or has been waived in a recorded instrument:

(i) Add land or units to the condominium;

(ii) Convert common elements into additional units or limited common elements;

(iii) Withdraw land from the condominium;

(iv) Use easements through the common elements for the purpose of making improvements within the condominium or within any adjacent land; or

(v) Convert a unit into two or more units, common elements, or into two or more units and common elements.

(2) At least 70 percent (or such lesser percentage as the Commissioner may prescribe) of the family units shall be occupied by the owners or shall have been sold to owners who intend to occupy the units.

(Sec. 211 of the National Housing Act (12 U.S.C. 1709, 1715))

the mortgage covering prepayment, that no charge is contemplated or has been collected for prepayment in full of the project mortgage.

(h) *Conditions and Provisions.* The Commissioner may require such conditions and provisions as he/she deems necessary including, but not limited to, the execution of an agreement between the owners and the Commissioner which shall be made applicable to the Association and to any owner of a family unit.

[45 FR 60426, Sept. 12, 1980]

§ 234.27 Maximum mortgage amounts.

(a) *Occupant mortgagors.* A mortgage executed by a mortgagor who is an occupant of the unit shall not exceed the lesser of the following:

(1) $67,500.

(2) 97 percent of the first $25,000 of the Commissioner's estimate of the appraised value of the family unit as of the date the mortgage is accepted for insurance, (100 percent of $25,000 of such value or the sum of such value not in excess of $25,000 and the items of prepaid expense approved by the Commissioner minus $200, whichever appraised amount or sum is the lesser in the case of a mortgagor meeting the veteran qualification provided in § 203.18(b)), and 95 percent of such value in excess of $25,000.

(b) *Increased mortgage amount.* The dollar limitations specified in paragraph (a)(1) of this section are increased to the amounts set forth in Appendix A to this part, for the geographical areas indicated in the appendix. In any geographical area where the Commissioner finds that middle- and moderate-income persons have limited housing opportunities due to the high prevailing housing sales

(ii) Such amount less than 25 percent of his adjusted monthly income as represents the utility allowance established by the Secretary, based on data originating from the appropriate utility, for the utility charges to be paid by such tenant, but in no case less than 20 percent of the tenant's adjusted monthly income with respect to any units for which the basic monthly rental charge has been determined pursuant to paragraph (a)(1)(ii) of this section.

(2) In no event shall the monthly rental exceed the fair market rental.

(c) *Adjustments in utility allowances.* In the event of any change in utility rates which results in a cumulative increase of 10 percent or more in the cost of those utilities included in the latest approved personal benefit expense, the project owner shall advise the Secretary and request approval of a new allowance for utilities.

(d) *Application of terms.* In the case of a cooperative project, the term "rental charge" as used in this subpart shall mean the charges under the occupancy agreement of members of the cooperative.

(Sec. 7(d), of the HUD Act; 42 U.S.C. 3535(d))

[41 FR 42950, Sept. 29, 1976, as amended at 43 FR 23568, May 31, 1978]

§ 236.56 Determination of project feasibility—fair market rentals.

(a) In the determination of project feasibility prior to issuing a commitment for mortgage insurance under this part, the fair market rentals estimated in accordance with § 236.55(a)(2) shall be at a level that can be expected to attract nonsubsidized tenants, who will pay fair market rentals, and shall not exceed the rentals obtainable for reasonably comparable nonsubsidized rental dwelling units similarly located. Adjustments may be made in such rentals to reflect additional management services such as increased tenant screening, counseling, and income certification and recertifications.

(b) In determining the feasibility of a project to be located in a deteriorating residential neighborhood, the Commissioner may determine a project to be feasible with estimated fair market rental levels in excess of those than can be expected to attract nonsubsidized tenants in that neighborhood provided that:

(1) The estimated fair market rentals do not exceed estimated fair market rentals obtainable in comparable projects in more stable neighborhoods, and

(2) The proposed project can be expected to contribute to the stabilization or improvement of the neighborhood.

[37 FR 7157, Apr. 11, 1972]

§ 236.60 Excess rental charges.

The mortgagor shall agree to pay monthly to the Commissioner the total of all rental charges collected in excess of the sum of the approved basic or temporary basic rental charges (as adjusted, if applicable, for tenant-paid utilities and/or tax and utility subsidy program) for all occupied units exclusive of the Tax and Utility Subsidy payment.

(Sec. 7(d), of the HUD Act; 42 U.S.C. 3535(d))

[43 FR 23568, May 31, 1978]

§ 236.65 Mortgagor's oath as to selection of tenants and transient occupancy.

The mortgagor shall certify under oath to the Commissioner, that as long as the Commissioner is the insurer, holder or reinsurer of the mortgage, the mortgagor will not:

(a) In selecting tenants for the project covered by the mortgage, discriminate against any family because there are children in the family.

(b) Rent, permit the rental or permit the offering for rental of the housing or any part thereof, covered by such mortgage, for transient or hotel purposes. For the purposes of this certificate, the term "rental for transient or hotel purposes" shall mean (1) rental for any period less than 30 days, or (2) except in the case of a project designed primarily for occupancy by elderly or handicapped persons, any rental which includes the provision of customary hotel services such as room service for food and beverages, furnishing and laundering of linens, maid service and bellboy service.

(c) Sell the project, unless the purchaser also agrees to comply with the requirements of paragraphs (a) and (b) of this section.

§ 236.70 Occupancy requirements.

(a) *Initial occupancy.* Initial occupancy of the project by tenants who re eligible and do not pay the fair arket rental shall be restricted to dividuals and families determined by he mortgagor as meeting the income equirements established by the Commission. Nonimmigrant student-liens, as defined in this Subpart, who re unable to pay the fair market rent vill not be eligible for admission to the roject.

for whom the project was designed and who meet the income requirements established by the Commissioner.

(c) *Preference for military personnel and displacees.* (1) Whenever the Commissioner determines that a project, because of its location or other considerations, could ordinarily be expected to substantially serve the family needs of military personnel who are serving on active duty and meet the income requirements established by the Commissioner, such preference for occupancy shall be afforded to the family of such military personnel as the Commissioner determines is appropriate.

(2) In all projects preference or priority to occupy dwelling units shall be given to displacees provided that in a project designed for the handicapped or the elderly, preference for displacees shall be limited to those who are within the category for whom the project was designed.

* * * * *

(d) *Nonimmigrant Student-Aliens.* A onimmigrant student-alien shall not be ligible for rents described in § 238.55(b) of this Subpart less than the fair market ental; provided, however, that if such lien is a tenant in a project receiving nterest reduction payments and, as a esult thereof, is paying rent based on § 238.55(b) of this Subpart on November 7, 1981, such alien may continue to pay ich rental charge provided in such ase until expiration of the current term f such lease. When the lease of a nonimmigrant student-alien providing r a rental charge less than the fair

ment, the applicant has an adequate income to pay the basic monthly rental charge. If the applicant's income appears inadequate, the factors listed below, in addition to the applicant's income, shall be taken into consideration in making a determination of whether he will be able to pay the basic monthly rental charge. The project owner or his managing agent shall maintain supporting written documentation for the decision to admit or reject an applicant for assisted admission based upon these factors.

(1) A local welfare or other agency has agreed to pay all or a portion of the basic monthly rental charge.

(2) The applicant is 62 years of age or older.

(3) The applicant is a qualified tenant on whose behalf the project owner will receive rent supplement payments under Part 215 of this title, or rental assistance payments under Part 236 and Part 426 of this title.

(4) The applicant has established a history of rent-paying ability at levels equal to or greater than basic rent.

(5) The applicant has sufficient income, when considered together with other assets, to pay the basic monthly rental charge for a reasonable period.

(6) The applicant receives food stamps, surplus commodities or similar benefits that favorably affect the applicant's ability to pay rent.

(7) Such other factors as, in the judgment of the project owner or his managing agent, bear favorably upon the applicant's ability to pay rent.

(c) *Preference for applicants within lowest practicable income limits.* The project owner or his managing agent shall accord a preference to applicants for assisted admission whose incomes are within the lowest practicable income limits and who meet the requirements of paragraphs (a) and (b) of this section.

(d) *Projects utilizing income limitations in effect subsequent to August 22, 1974.* The preference provided for in paragraph (c) of this section is not applicable to projects utilizing income limitations in effect subsequent to August 22, 1974.

United States of America
**Office of
Personnel Management**

Office of the General Counsel
Washington, D.C. 20415

In Reply Refer To

AUG 17

Your Reference

Mr. Edward Scott
Committee on Veterans' Affairs
United States Senate
Washington, D.C. 20510

Dear Mr. Scott:

This letter responds to your request for our comments and technical assistance with regard to the effects of Amendment No. 1909 to S. 2378, the proposed "Veterans' Disability Compensation and Survivors' Benefits Amendments of 1982."

I have reviewed the amendment, with particular attention to the new subsection (d)(3)(b)(ii) to section 401 which would amend 38 U.S.C. 3103A to require a two-year period of minimum service for entitlement to certain benefits as a result of active duty service. This section is to supersede the provisions of section 977 of title 10, United States Code.

Without commenting upon the substantive merits of the proposed new subsection (d)(3)(b)(ii), I note that its immediate effect would be to amend the definition of the term "preference eligible" as it presently exists in 5 U.S.C. § 2108(3). The practical effect of the amendment is to allow the title 5 definition to continue to exist without any evidence on its face, or, indeed, anywhere else in title 5, United States Code, of a very important change having been made to it.

Thus, the very integrity of not only the section in question, but also, possibly, of the whole title may be impaired for purposes of future reference. A researcher would now be required to go outside a title of the Code, despite the fact that it has been codified, and exhaust all other titles to assure himself that there have been no other changes made to a section in question.

Since the very nature of codification is to draw all materials and references into one central place for ready reference, the net effect of this amendment is to cause us to revert to pre-codification days, at least in this one instance.

Naturally, as the General Counsel of OPM, I believe I must counsel against a legislative proposal that would bring about such a situation.

I hope that my comments have been of some assistance to you.

Sincerely yours,

Joseph A Morris

Joseph A. Morris
General Counsel

United States of America
**Office of
Personnel Management** Washington, D.C. 20415

In Reply Refer To   Your Reference

AUG 18 1982

Honorable Alan K. Simpson
Chairman, Committee on Veterans'
  Affairs
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

This is in reply to your July 7, 1982 request for the views of the Office of Personnel Management on Amendment No. 1909 to S. 2378, the proposed "Veterans' Disability Compensation and Survivors' Benefits Amendments of 1982."

This amendment would provide a two year military service requirement for veterans' preference eligibility in Federal employment. Current law does not have a minimum service requirement for eligibility for veterans' preference. Thus, the amendment limits the number of veterans who would be eligible for preference. OPM is opposed to this limitation on eligibility for veterans' preference. We therefore, propose that the veterans' preference provision in the 1909 amendment to S. 2378 be deleted, and that no limitations be placed on current eligibility requirements for veterans' preference.

You have requested our views on section 977 of title 10 and how OPM interprets it. OPM's General Counsel has determined that title 5, rather than title 10, governs the application of veterans' preference in Federal employment. Veterans' preference is a provision of law which governs Federal employment. Accordingly, it is not in the same category as the broad range of programs, services, and benefits that the VA administers under titles 10 and 38 such as death benefits, hospitalization or pensions. Veterans' preference is a separate body of law with its own history and eligibility requirements and is codified in title 5, United States Code, rather than in titles 10 or 38, United States Code. Essentially, this is because veterans' preference provisions are different from the veteran entitlement provisions in titles 38 and 10, U.S.C.

The Office of Management and Budget advises that from the standpoint of the Administration's Program there is no objection to the submission of this report.

Sincerely,

Donald J. Devine
Director

CON 114-24-3
January 1979

U.S. SMALL BUSINESS ADMINISTRATION
WASHINGTON, D.C. 20416

OFFICE OF THE ADMINISTRATOR

AUG 18 1982

Honorable Alan K. Simpson
Chairman
Committee on Veterans' Affairs
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

This is in further response to your request for the comments of the Small Business Administration (SBA) on Amendment No. 1909 as it would affect this Agency. Amendment No. 1909 would supercede section 977 of title 10, United States Code, and would incorporate in title 38, United States Code, provisions for a general two-year minimum service requirement with respect to non-title 38 benefits, rights and privileges provided to veterans by reason of their active duty service.

Subsection 4(b)(1) of the Small Business Act provides, in pertinent part:

> "In carrying out the programs administered by the Small Business Administration, . . . the Small Business Administration shall give special consideration to veterans of the Armed Forces of the United States. . . ."

In compliance with this provision of the Small Business Act, SBA presently affords veterans a preference in the processing of applications for participation in existing programs. At this time, however, no one becomes eligible for any SBA program solely by reason of serving on active duty in the Armed Forces. Therefore, the proposed amendment would not affect the SBA or the applicants to or participants in SBA programs.

Sincerely,

James C Sanders

James C. Sanders
Administrator

THE SECRETARY OF HEALTH AND HUMAN SERVICES
WASHINGTON, D.C. 20201

APR 1 6 1982

The Honorable Alan K. Simpson
Chairman, Committee on Veterans' Affairs
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

This is in response to your request for a report on Amendment No. 1909 to S. 2378, a bill "To amend title 38, United States Code, to increase the rates of disability compensation for disabled veterans; to increase the rates of dependency and indemnity compensation for surviving spouses and children of veterans; to discontinue duplicative payments to certain veterans; to increase the level of disability required for the payment of dependents' allowances; to provide for cost-saving improvements in veterans' programs, and for other purposes".

Present law now generally provides that members of the uniformed services must serve a minimum of two years in order to qualify for federally furnished rights, privileges, and benefits based on their active duty service. Amendment No. 1909 would conform the minimum service requirement applicable to rights, privileges and benefits administered by agencies other than the Veterans' Administration (VA) to that now applicable to VA programs. The amendment would also clarify that the only provision of the Social Security Act to which the 2-year minimum service requirement applies is section 229, which authorizes the granting of deemed military wage credits.

Since the deemed military wage credits authorized by the Social Security Act are the only benefits administered by this Department that are now affected by the minimum service requirement, we would have no objection to the adoption of Amendment No. 1909 insofar as it directly affects this Department. Of course, we defer to the views of other agencies also affected by the amendment.

We are advised by the Office of Management and Budget that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

Secretary

United States
Department of
Agriculture

Farmers
Home
Administration

Washington
D.C.
20250

AUG 19 1982

Honorable Alan K. Simpson
Chairman, Committee on Veterans Affairs
United States Senate
Washington, D.C. 20510

Dear Senator Simpson:

This is in reply to your letter of August 6, 1982, requesting our comments on Amendment No. 1909 to the bill S. 2378, the proposed "Veterans' Disability Compensation and Survivors' Benefits Amendments of 1982."

We have determined that this proposed legislation would have no bearing on programs administered by the Farmers Home Administration. We therefore defer to agencies whose programs would be affected.

Sincerely,

CHARLES W. SHUMAN
Administrator

FmHA Farmers Home Administration is an Equal Opportunity Lender
Complaints of discrimination should be sent to:
Secretary of Agriculture, Washington, D.C. 20250

ALAN K. SIMPSON, WYO., CHAIRMAN
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THOMAS E. HARVEY
CHIEF COUNSEL AND STAFF DIRECTOR

United States Senate
COMMITTEE ON VETERANS' AFFAIRS
WASHINGTON, D.C. 20510

September 8, 1982

Honorable Alan C. Nelson
Commissioner
Immigration and Naturalization Service
Department of Justice
Washington, D. C. 20536

Dear Al:

Thank you for your response to my request for comments on Amendment No. 1909 to S. 2378.

Your letter indicated that, in your view, this amendment will have no impact or effect on the provisions of the Immigration and Nationality Act (INA) -- sections 328 and 329, (8 U.S.C. §1439 and 1440, respectively) -- those related to immigration and naturalization benefits based on service in the Armed Forces of the United States. Your response did not directly address the question that I had asked regarding the applicability of present section 977 of title 10, United States Code, to those benefits.

Upon review of your response, I believe that certain clarifications are necessary with respect to the effects of section 977 of title 10 on the eligibility for such naturalization benefits of those to whom that section applies.

First, INA section 328 provides for the waiver of the residency requirement for one who has served in the Armed Forces at any time for a period or periods aggregating three years, and it is my understanding that that three-year service requirement has been interpreted as including periods of reserve status. Thus, it would appear that, in certain instances of individuals who originally enlist in a regular component of the Armed Forces after September 7, 1980, they may satisfy the requirement of INA section 328 through a combination of active duty and reserve status but, upon failing to complete 24 months of their enlistments, be subject to the bar to benefits set forth in section 977 of title 10. In such cases, would not section 977 preclude eligibility for the INA section 328 benefits?

Second, under INA section 329, it is my understanding that age and residency requirements are generally to be waived for individuals who serve in an active-duty status during any future period that the President by Executive Order designates as a period in which the Armed Forces of the United States are engaged in certain military operations involving armed conflict and who, if separated from such service, are separated under honorable conditions. In the cases of individuals to whom section 977 applies, who are separated under honorable conditions, but who fail to meet that section's 24-month service requirement, would not section 977 preclude eligibility for the section 329 benefit?

If your answer to either of the foregoing questions regarding the application of section 977 of title 10 is that its provisions would preclude eligibility for naturalization benefits under INA section 328 or 329, I would appreciate your reconsidering your position on the effects that the provisions of Amendment No. 1909 would have on section 328 and 329 benefit eligibilities and providing me with your further comments on the provisions of the amendment.

In light of the fact that the Committee is planning to file its report on legislation incorporating the provisions of Amendment No. 1909 by September 17, I ask that you make every effort to expedite your response to this letter.

As always, I greatly appreciate your cooperation.

With warm personal regards,

Sincerely,

Alan K. Simpson
Chairman

AKS/bng

CHANGES IN EXISTING LAW MADE BY S. 2913 AS REPORTED

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

TITLE 10—ARMED FORCES

* * * * * * *

CHAPTER 49—MISCELLANEOUS PROHIBITIONS AND PENALTIES

Sec.
973. Duties: officers on active duty; performance of civil functions restricted.
975. Prohibition on the sale of certain defense articles from the stocks of the Department of Defense.
976. Membership in military unions, organizing of military unions, and recognition of military unions prohibited.
[977. Denial of certain benefits to persons who fail to complete at least two years of an original enlistment.]

* * * * * * *

[§ 977. Denial of certain benefits to persons who fail to complete at least two years of an original enlistment

[(a) Notwithstanding any other provision of law and except as provided in subsection (b), any person who originally enlists in a regular component of the armed forces on or after the date of the enactment of the Department of Defense Authorization Act, 1981, and who fails to complete at least twenty-four months of such person's period of original enlistment shall not be eligible for any right, privilege, or benefit for which persons become eligible under any Federal program by reason of serving on active duty in the armed forces if the claim for the eligibility of such person for such right, privilege, or benefit is based upon any period of service performed by such person under such enlistment.

[(b) Subsection (a) shall not apply to any person (1) who was discharged under section 1173 or chapter 61 of this title, or (2) if it is later established that such person is suffering from a disability which resulted from an injury or disease incurred in or aggravated during the period of the enlistment completed by such person and is not the result of the person's intentional misconduct and was not incurred during a period of unauthorized absence.]

* * * * * * *

TITLE 38—UNITED STATES CODE

* * * * * * *

PART I—GENERAL PROVISIONS

* * * * * * *

CHAPTER 3—VETERANS' ADMINISTRATION; OFFICERS AND EMPLOYEES

* * * * * * *

Subchapter IV—Veterans Outreach Sevices Program

* * * * * * *

§ 243. Veterans' representatives

[(a)(1) Except as otherwise provided in paragraph (4) of this subsection, the Administrator shall assign, with appropriate clerical-secretarial support, to each educational institution (as defined in section 1652(c) except for correspondence schools) where at least five hundred persons are enrolled under chapters 31, 34, 35, and 36 of this title such number of full-time veterans' representatives as will provide at least one such veterans' representative per each five hundred such persons so enrolled at each such institution; and the Administrator shall also assign to other such veterans' representatives responsibility for carrying out the functions set forth in paragraph (3) of this subsection with respect to groups of institutions with less than five hundred such persons so enrolled, on the basis of such proportion of such veterans' representatives' time to such persons so enrolled as he deems appropriate to be adequate to perform such functions at such institutions.

[(2) In selecting and appointing veterans' representatives under this subsection, preference shall be given to veterans of the Vietnam era with experience in veterans affairs' counseling, outreach, and other related veterans' services.

[(3) The functions of such veterans' representatives shall be to—

[(A) answer all inquiries related to Veterans' Administration educational assistance and other benefits, and take all necessary action to resolve such inquiries expeditiously, especially those relating to payments of educational assistance benefits;

[(B) assure correctness and proper handling of applications, completion of certifications of attendance, and submission of all necessary information (including changes in status or program affecting payments) in support of benefit claims submitted;

[(C) maintain active liaison, communication, and cooperation with the officials of the educational institution to which assigned, in order to alert veterans to changes in law and Veterans' Administration policies or procedures;

[(D) supervise and expeditiously resolve all difficulties relating to the delivery of advance educational assistance payments authorized under this title;

[(E) coordinate Veterans' Administration matters with, and provide appropriate briefings to, all on-campus veterans' groups, working particularly closely with veterans' coordinators at educational institutions receiving veterans' cost-of-instruction payments under section 420 of the Higher Education Act of 1965, as amended (hereinafter referred to as "V.C.I. institutions");

[(F) provide necessary guidance and support to veteran-student services personnel assigned to the campus under section 1685 of this title;

[(G) where such functions are not being adequately carried out by existing programs at such institutions (i) provide appropriate motivational and other counseling to veterans (informing them of all available benefits and services, as provided for under section 241 of this title) and (ii) carry out outreach activities under this subchapter; and

[(H) carry out such other activities as may be assigned by the director of the Veterans' Administration regional office, established under section 230 of this title.

[(4) Based on the extent to which the functions set forth in paragraph (3) of this subsection are being adequately carried out at a particular educational institution or in consideration of other factors indicating the inappropriateness of assignment of veterans' representatives to a particular educational institution, the director of the appropriate Veterans' Administration regional office shall, notwithstanding the formula set forth in paragraph (1) of this subsection, either reallocate such veterans' representatives to other educational institutions in such region where he determines that such additional veterans' representatives are necessary, or, with the approval of the chief benefits officer of the Veterans' Administration, assign such veterans' representatives to carry out such functions or related activities at the regional office in question, with special responsibility for one or more than one particular educational institution.

[(5) The functions of a veterans' representative assigned under this subsection shall be carried out in such a way as to complement and not interfere with the statutory responsibilities and duties of persons carrying out veteran affairs' functions at V.C.I. institutions.

[(b) The Administrator shall establish rules and procedures to guide veterans' representatives in carrying out their functions under this section. Such rules and procedures shall contain provisions directed especially to assuring that the activities of veterans' representatives carried out under this section complement, and do not interfere with, the established responsibilities of representatives recognized by the Administrator under section 3402 of this title.]

The Administrator may assign veterans representatives to educational institutions or other appropriate locations as necessary (1) to provide assistance in connection with the provision of benefits under this title to veterans and eligible persons, and (2) to provide outreach services under this subchapter.

* * * * * * *

PART II—GENERAL BENEFITS

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CHAPTER 11—COMPENSATION FOR SERVICE-CONNECTED DISABILITY OR DEATH

* * * * * * *

Subchapter II—Wartime Disability Compensation

* * * * * * *

§ 314. Rates of wartime disability compensation

For the purposes of section 310 of this title—

(a) if and while the disability is rated 10 per centum the monthly compensation shall be **[**$58**]** *$62*;

(b) if and while the disability is rated 20 per centum the monthly compensation shall be **[**$107**]** *$114*;

(c) if and while the disability is rated 30 per centum the monthly compensation shall be **[**$162**]** *$173*;

(d) if and while the disability is rated 40 per centum the monthly compensation shall be **[**$232**]** *$249*;

(e) if and while the disability is rated 50 per centum the monthly compensation shall be **[**$328**]** *$352*;

(f) if and while the disability is rated 60 per centum the monthly compensation shall be **[**$413**]** *$443*;

(g) if and while the disability is rated 70 per centum the monthly compensation shall be **[**$521**]** *$559*;

(h) if and while the disability is rated 80 per centum the monthly compensation shall be **[**$604**]** *$648*;

(i) if and while the disability is rated 90 per centum the monthly compensation shall be **[**$679**]** *$729*;

(j) if and while the disability is rated as total the monthly compensation shall be **[**$1,130**]** *$1,213*;

(k) if the veteran, as the result of service-connected disability, has suffered the anatomical loss or loss of use of one or more creative organs, or one foot, or one hand, or both buttocks, or blindness of one eye, having only light perception, or has suffered complete organic aphonia with constant inability to communicate by speech, or deafness of both ears, having absence of air and bone conduction, the rate of compensation therefor shall be $62 per month for each such loss or loss of use independent of any other compensation provided in subsections (a) through (j) or subsection (s) of this section but in no event to exceed **[**$1,403**]** *$1,506* per month; and in the event the veteran has suffered one or more of the disabilities heretofore specified in this subsection, in addition to the requirement for any of the rates specified in subsections (l) through (n) of this section, the rate of compensation shall be increased by $62 per month for each such loss or loss of use, but in no event to exceed **[**$1,966**]** *$2,111* per month;

(l) if the veteran, as the result of service-connected disability, has suffered the anatomical loss or loss of use of both feet, or of one hand and one foot, or is blind in both eyes, with 5/200 visual acuity or less, or is permanently bedridden or so helpless as to be in need of regular aid and attendance, the monthly compensation shall be **[**$1,403**]** *$1,506*;

(m) if the veteran, as the result of service-connected disability, has suffered the anatomical loss or loss of use of both hands, or of both legs at a level, or with complications, preventing natural knee action with prostheses in place, or of one arm and one leg at levels, or with complications, preventing natural elbow and knee action with prostheses in place, or has suffered blindness in both eyes, having only light perception, or has suffered blindness in both eyes, rendering such veteran so helpless as to be in need of regular aid and attendance, the monthly compensation shall be **[**$1,547**]** *$1,661*;

(n) if the veteran, as the result of service-connected disability, has suffered the anatomical loss or loss of use of both arms at levels, or with complications, preventing natural elbow action with prostheses in place, has suffered the anatomical loss of both legs so near the hip as to prevent the use of prosthetic appliances, or has suffered the anatomical loss of one arm and one leg so near the shoulder and hip as to prevent the use of prosthetic appliances, or has suffered the anatomical loss of both eyes, *or has suffered total blindness without light perception in both eyes,* the monthly compensation shall be **[**$1,758**]** *$1,888*;

(o) if the veteran, as the result of service-connected disability, has suffered disability under conditions which would entitle such veteran to two or more of the rates provided in one or more subsections (l) through (n) of this section, no condition being considered twice in the determination, or if the veteran has suffered bilateral deafness (and the hearing impairment in either one or both ears is service connected) rated at 60 per centum or more disabling and the veteran has also suffered service-connected total blindness with 5/200 visual acuity or less, or if the veteran has suffered the anatomical loss of both arms so near the shoulder as to prevent the use of prosthetic appliances, the monthly compensation shall be **[**$1,966**]** *$2,111*;

(p) in the event the veteran's service-connected disabilities exceed the requirements for any of the rates prescribed in this section, the Administrator may allow the next higher rate or an intermediate rate, but in no event in excess of **[**$1,966**]** *$2,111*. In the event the veteran has suffered service-connected blindness, with 5/200 visual acuity of less and (1) has also suffered bilateral deafness (and the hearing impairment in either one or both ears is service connected) rated at no less than 40 per centum disabling, the Administrator shall allow the next higher rate, or (2) has also suffered service-connected total deafness in one ear, the Administrator shall allow the next intermediate rate, but in no event in excess of **[**$1,966**]** *$2,111*. In the event the veteran has suffered the anatomical loss or loss of use, or a combination of anatomical loss and loss of use, of three extremities, the Administrator shall allow the next higher rate or intermediate rate, but in no event in excess of **[**$1,966**]** *$2,111*. Any intermediate rate under this subsection shall be established at the arithmetic mean, rounded to the nearest dollar, between the two rates concerned;

[(q)**]**

(r) Subject to section 3203(e) of this title, if any veteran, otherwise entitled to compensation authorized under subsection (o) of this section, at the maximum rate authorized under subsection (p) of this section, or at the intermediate rate authorized between the rates authorized under subsections (n) and (o) of this section and at the rate authorized under subsection (k) of this section, is in need of regular aid and attendance, then, in addition to such compensation—

(1) the veteran shall be paid a monthly aid and attendance allowance at the ratre of [$844] *$906; or*

(2) if the veteran, in addition to such need of regular aid and attendance, is in need of a higher level of care, such veteran shall be paid a monthly aid and attendance allowance at the rate of [$1,257] *$1,350,* in lieu of the allowance authorized in clause (1) of this subsection, if the Administrator finds that the veteran, in the absence of the provision of such care, would require hospitalization, nursing home care, or other residential institutional care.

For the purposes of clause (2) of this subsection, need for a higher level of care shall be considered to be need for personal health-care services provided on a daily basis in the veteran's home by a person who is licensed to provide such services or who provides such services under the regular supervision of a licensed health-care professional. The existence of the need for such care shall be determined by a physician employed by the Veteran's Administration or, in areas where no such physician is available, by a physician carrying out such function under contract or fee arrangement based on an examination by such physician.

For the purposes of section 334 of this title, such allowance shall be considered as additional compensation payable for disability;

(s) If the veteran has a service-connected disability rated as total, and (1) has additional service-connected disability or disabilities independently ratable at 60 per centum or more or, (2) by reason of such veteran's service-connected disability or disabilities, is permanently housebound, then the monthly compensation shall be [$1,264] *$1,357.* For the purposes of this subsection, the requirement of "permanently housebound" will be considered to have been met when the veteran is substantially confined to such veteran's house (ward or clinical areas, if institutionalized) or immediate premises due to a service-connected disability or disabilities which it is reasonably certain will remain throughout such veteran's lifetime.

(t)(1) If the veteran (A) is entitled to receive compensation at any rate provided for under subsections (a) through (i) of this section and compensation under subsection (k) of this section, (B) has suffered the loss or loss of use of an extremity as a result of a service-connected disability ratable at 40 per centum or more, and (C) has suffered the loss or loss of use of the paired extremity as a result of a non-service-connected disability, not the result of the veteran's own willful misconduct, that would be rated, if service-connected, at 40 per centum or more, the monthly rate of compensation payable to such veteran shall be increased by [$244] *$262*.

(2) If a veteran described in paragraph (1) of this subsection received any money or property of value pursuant to an award in a judicial proceeding based upon, or a settlement or compromise of, any cause of action for damages for the non-service-connected disability described in such paragraph, the increase in the rate of compensation otherwise payable under this subsection shall not be paid for any month following a month in which any such money or property is received until such time as the total of the amount of such increase that would otherwise have been payable equals the total of the amount of any such money received and the fair market value of any such property received.

§ 315. Additional compensation for dependents

Any veteran entitled to compensation at the rates provided in section 314 of this title, and whose disability is rated not less than 30 per centum, shall be entitled to additional compensation for dependents in the following monthly amounts:

(1) If and while rated totally disabled and—

[(A) has a spouse but no child living, $69;

[(B) has a spouse and one child living, $116;

[(C) has a spouse and two children living, $153;

[(D) has a spouse and three or more children living, $192 (plus $38 for each living child in excess of three);

[(E) has no spouse but one child living, $47;

[(F) has no spouse but two children living, $86;

[(G) has no spouse but three or more children living, $123 (plus $38 for each living child in excess of three);]

(A) has a spouse but no child, $74;

(B) has a spouse and one or more children, $124 plus $40 for each child in excess of one;

(C) has no spouse but one or more children, $50 plus $40 for each child in excess of one;

[(H)] *(D)* has a parent dependent upon such veteran for support, then, in addition to the above amounts, [$56] *$60* for each parent so dependent;

[(I)] *(E)* notwithstanding the other provisions of this paragraph, the monthly payable amount on account of a spouse who is (i) a patient in a nursing home or (ii) helpless or blind, or so nearly helpless or blind as to need or require the regular aid and attendance of another person, shall be [$125] *$134* for a totally disabled veteran and proportionate amounts for partially disabled veterans in accordance with paragraph (2) of this section; and

[(J)] *(F)* notwithstanding the other provisions of this paragraph, the monthly payable amount on account of each child who has attained the age of eighteen years and who is pursuing a course of instruction at an approved educational institution shall be [$105] *$112* for a totally disabled veteran and proportionate amounts for partially disabled veterans in accordance with paragraph (2) of this section.

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Subchapter VI—General Compensation Provisions

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§ 362. Clothing allowance

The Administrator under regulations which the Administrator shall prescribe, shall pay a clothing allowance of **[**$305**]** *$327* per year to each veteran who because of disability which is compensable under the provisions of this chapter, wears or uses a prosthetic or orthopedic appliance or appliances (including a wheelchair) which the Administrator determines tends to wear out or tear the clothing of such a veteran.

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CHAPTER 13—DEPENDENCY AND INDEMNITY COMPENSATION FOR SERVICE-CONNECTED DEATHS

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Subchapter II—Dependency and Indemnity Compensation

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§ 410. Deaths entitling survivors to dependency and indemnity compensation

(a) When any veteran dies after December 31, 1956, from a service-connected or compensable disability, the Administrator shall pay dependency and indemnity compensation to such veteran's surviving spouse, children, and parents. The standards and criteria for determining whether or not a disability is service-connected shall be those applicable under chapter 11 of this title.

(b)(1) Notwithstanding the provisions of subsection (a) of this section, when any veteran dies, not as the result of the veteran's own willful misconduct, if the veteran was *or but for a clear and unmistakable error would have been* in receipt of (or but for the receipt of retired or retirement pay was *or but for a clear and unmistakable error would have been* entitled to receive) compensation at the time of death for a service-connected disability that either (A) was continuously rated totally disabling for a period of ten or more years immediately preceding death, or (B) if so rated for a lesser period, was so rated continuously for a period of not less than five years from the date of such veteran's discharge or other release from active duty, the Administrator shall pay benefits under this chapter to the veteran's surviving spouse, if such surviving spouse was married to such veteran for not less than two years immediately preceding such veteran's death, and to such veteran's children, in the same manner as if the veteran's death were service-connected.

(2) If a surviving spouse or a child receives any money or property of value pursuant to an award in a judicial proceeding based upon, or a settlement or compromise of, any cause of action for damages for the death of a veteran described in paragraph (1) of this subsection, benefits under this chapter payable to such surviving spouse or child by virtue of this subsection shall not be paid for any month following a month in which any such money or property is received until such time as the total amount of such benefits

that would otherwise have been payable equals the total of the amount of the money received and the fair market value of the property received.

(3) For purposes of sections 1448(d) and 1450(c) of title 10, eligibility for benefits under this chapter by virtue of this subsection shall be deemed eligibility for dependency and indemnity compensation under section 411(a) of this title.

(c) Dependency and indemnity compensation shall not be paid to the surviving spouse, children, or parents of any veteran dying after December 31, 1956, unless such veteran (1) was discharged or released under conditions other than dishonorable from the period of active military, naval, or air service in which the disability causing such veteran's death was incurred or aggravated, or (2) died while in the active military, naval, or air service.

§ 411. Dependency and indemnity compensation to a surviving spouse

(a) Dependency and indemnity compensation shall be paid to a surviving spouse, based on the pay grade of the person upon whose death entitlement is predicated, at monthly rates set forth in the following table:

[*Pay grade*	*Monthly rate*	*Pay grade*	*Monthly rate*
E-1	$415	W-4	$595
E-2	428	O-1	525
E-3	438	O-2	542
E-4	466	O-3	580
E-5	479	O-4	613
E-6	490	O-5	676
E-7	514	O-6	761
E-8	542	O-7	824
E-9	[1] 567	O-8	903
W-1	525	O-9	970
W-2	546	O-10	[2] 1,061]
W-3	562		

Pay grade	*Monthly rate*	*Pay grade*	*Monthly rate*
E-1	*$445*	*W-4*	*$639*
E-2	*459*	*O-1*	*563*
E-3	*470*	*O-2*	*582*
E-4	*500*	*O-3*	*622*
E-5	*514*	*O-4*	*658*
E-6	*526*	*O-5*	*726*
E-7	*552*	*O-6*	*817*
E-8	*582*	*O-7*	*884*
E-9	[1] *608*	*O-8*	*969*
W-1	*563*	*O-9*	*1,041*
W-2	*586*	*O-10*	[2] *1,139*
W-3	*603*		

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[1] If the veteran served as sergeant major of the Army, senior enlisted advisor of the Navy, chief master sergeant of the Air Force, sergeant major of the Marine Corps, or master chief petty officer of the Coast Guard, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be [$610] *$655*.

If the veteran served as Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations. Chief of Staff of the Air Force or Commandant of the Marine Corps, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be [$1,138] *$1,222*.

(b) If there is a surviving spouse with one or more children below the age of eighteen of a deceased veteran, the dependency and indemnity compensation paid monthy to the surviving spouse shall be incresed by [$48] *$51* for each such child.

(c) The monthly rate of dependency and indemnity compensation payable to a surviving spouse shall be increased by [$125] *$134* is the spouse is (1) a patient in a nursing home or (2) helpless or blind, or so nearly helpless or blind as to need or require the regular aid and attendance of another person.

(d) The monthly rate of dependency and indemnity compensation payable to a surviving spouse shall be increased by [$62] *$66* if the surviving spouse is, by reason of disability, permanenty housebound but does not qualify for the aid and attendance allowance under subsection (c) of this section. For the purposes of this subsection, the requirement of "permanently housebound" will be considered to have been met when the surviving spouse is substantially confined to such surviving spouse's home (ward or clinical areas, if institutionalized) or immediate premises by reason of a disability or disabilities which it is reasonably certain will remain throughout such surviving spouse's lifetime.

* * * * * * *

§ 413. Dependency and indemnity compensation to children

(a) Whenever there is no surviving spouse of a deceased veteran entitled to dependency and indemnity compensation, dependency and indemnity compensation shall be paid in equal shares to the children of the decceased veteran at the following monthly rates:

(1) one child [$210]*$225*
(2) two children,[$301];*$323*
(3) three children, [$389] *$417;*
(4) more than three children, [$389], *$417,* plus [$79] *$84* for each child in excess of three.

(b) If dependency and indemnity compensation has been awarded under this section to a veteran's child or children and the entitlement to dependency and indemnity compensation under this section of an additional child of that veteran who is over the age of eighteen years and who had previously been entitled to dependency and indemnity compensation under this section before becoming eighteen years of age is later reestablished effective retroactively upon determination that such child is pursuing a corse of instruction at an approved educational institution, the amount payable retroactively to the additional child is the amount equal to the difference between the total of the increased award payable under this section to the children of the deceased veteran for the retroactive period and the prior total award for such purpose for that period.

§ 414. Supplemental dependency and indemnity compensation to children

(a) In the case of a child entitled to dependency and indemnity compensation who has attained the age of eighteen and who, while under such age, became permanently incapable of self-support, the dependency and indemnity compensation paid monthly to such child shall be increased by **[**$125**]** *$134*.

(b) If dependency and indemnity compensation is payable monthly to a person as a "surviving spouse" and there is a child (of such person's deceased spouse) who has attained the age of eighteen and who, while under such age, became permanently incapable of self-support, dependency and indemnity compensation shall be paid monthly to each such child, concurrently with the payment of dependency and indemnity compensation to the surviving spouse, in the amount of **[**$210**]** *$225*.

(c) If dependency and indemnity compensation is payable monthly to a person as a "surviving spouse" and there is a child (of such person's deceased spouse) who has attained the age of eighteen and who, while under such age of twenty-three, is pursuing a course of instruction at an educational institution approved under section 104 of this title, dependency and indemnity compensation shall be paid monthly to each such child, concurrently with the payment of dependency and indemnity compensation to the surviving spouse, in the amount of **[**$107**]** *$114*.

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CHAPTER 19—INSURANCE

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Subchapter I—National Service Life Insurance

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§ 718. Assignments

(a) Assignments of all or any part of the beneficiary's interest may be made by a designated beneficiary to a widow, widower, child, father, mother, grandfather, grandmother, brother, or sister of the insured, when the designated contingent beneficiary, if any, joins the beneficiary in the assignment, and if the assignment is delivered to the Veterans' Administration before any payments of the insurance shall have been made to the beneficiary. However, an interest in an annuity, when assigned, shall be payable in equal monthly installments in such multiple of twelve as most nearly equals the number of installments certain under such annuity, or in two hundred and forty installments, whichever is the lesser. The provisions of this subsection shall not be applicable to insurance maturing on or after the date of enactment of this sentence.

(b) Except as to insurance granted under the provisions of section 722(b) of this title, any person to whom insurance maturing on or after the date of enactment of this sentence is payable may assign all or any portion of such person's interest in such insurance to a widow, widower, child, father, mother, grandfather, grandmother, brother, or sister of the insured when the designated contingent beneficiary, if any, joins the beneficiary in the assignment. Such joinder shall not be required in any case in which the insurance proceeds are payable in a lump sum.

(c) Except as to insurance granted under section 722(b) of this title, in any case involving a dispute between two or more persons,

each of whom is claiming proceeds of a policy maturing on or after the date of the enactment of this subsection, an assignment of all or any portion of the proceeds to a person other than a person specified in subsection (b) of this section is authorized to resolve such dispute if the proposed assignee claims such proceeds on the grounds that—

(1) the insured during such insured's lifetime designated such proposed assignee as the beneficiary;

(2) the insured contracted during such insured's lifetime with such proposed assignee to designate such proposed assignee as the beneficiary; or

(3) such proposed assignee was named, during such insured's lifetime, in a judicial order or decree as a person whom the insured was ordered to designate as the beneficiary or to retain as the designated beneficiary.

Except in cases in which the insurance proceeds are payable in a lump sum, the designated contingent beneficiary, if any, must join in any such assignment by a person upon whose death or disqualification such contingent beneficiary's claim to the proceeds would be predicated.

* * * * * * *

§ 753. Assignments

(a) Any person to whom United States Government life insurance shall be payable may assign such person's interest in such insurance to the spouse, child, grandchild, parent, brother, sister, uncle, aunt, nephew, niece, brother-in-law, or sister-in-law of the insured. Insofar as applicable, the definitions contained in section 3 of the World War Veterans' Act, 1924, in effect on December 31, 1958, shall apply to this section.

(b) In any case involving a dispute between two or more persons, each of whom is claiming proceeds of a policy maturing on or after the date of the enactment of this subsection, an assignment of all or any portion of the proceeds to a person other than a person specified in subsection (a) of this section is authorized to resolve such dispute if the proposed assignee claims such proceeds on the grounds that—

(1) the insured during such insured's lifetime designated such proposed assignee as the beneficiary;

(2) the insured contracted during such insured's lifetime with such proposed assignee to designate such proposed assignee as the beneficiary; or

(3) such proposed assignee was named, during such insured's lifetime, in a judicial order or decree as a person whom the insured was ordered to designate as the beneficiary or to retain as the designated beneficiary.

Except in cases in which the insurance proceeds are payable in a lump sum, the designated contingent beneficiary, if any, must join in any such assignment by a person upon whose death or disqualification such contingent beneficiary's claim to the proceeds would be predicated.

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Subchapter III—Servicemen's Group Life Insurance

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§ 770. Beneficiaries; payment of insurance

(a) * * *

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(c) If, within two years after the death of the member or former member, no claim for payment has been filed by any person entitled under the order of precedence set forth in this section, and neither the Administrator nor the administrative office established by the insurance company or companies pursuant to section 766(b) of this title has received any notice that any such claim will be made, payment may be made to a claimant as may in the judgment of the Administrator be equitably entitled thereto, and such payment shall be a bar to recovery by any other person. **[**If, within four years after the death of the member or former member, payment has not been made pursuant to this section and no claim for payment by any person entitled under this section is pending, the amount payable shall escheat to the credit of the revolving fund referred to in section 769(d).**]**

* * * * * * *

(h) Under no circumstances shall insurance payable under this subchapter escheat to a State, and payment shall not be made to the insured's estate or the estate of any beneficiary unless it is affirmatively shown that any sum to be paid will not escheat.

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CHAPTER 23—BURIAL BENEFITS

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§ 902. Funeral expenses

(a) * * *

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(c)(1) For the purposes of this section, a deceased veteran of any war or a deceased veteran who was discharged or released from active military, naval, or air service for a service-connected disability shall be deemed to have been in receipt of pension at the time of such veteran's death if a State or political subdivision of a State certifies in writing to the Administrator that—

(A) there is no next of kin or other person claiming the body of such deceased veteran;

(B) such State or political subdivision has assumed responsibility for the burial and funeral expenses of such deceased veteran; and

(C) there is not available, other than from such State or political subdivision, an amount of resources or funds sufficient to cover the burial and funeral expenses of such deceased veteran.

(2) The payment made on behalf of such deceased veteran under subsection (a) of this section as a result of paragraph (1) of this subsection shall, notwithstanding the provisions of subsection (b) of

this section, be paid to such State or political subdivision and shall be the lesser of $300 or the actual burial and funeral expenses incurred by such State or political subdivision.

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PART III—READJUSTMENT AND RELATED BENEFITS

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§ 1503. Periods of eligibility

(a) Except as provided in subsection (b), (c), or (d) of this section, a rehabilitation program may not be afforded to a veteran under this chapter after the end of the twelve-year period beginning on the date of such veteran's discharge or release from active military, naval, or air service.

(b)(1)*(A)* In any case in which the Administrator determines that a veteran has been prevented from participating in a vocational rehabilitation program under this chapter within the period of eligibility prescribed in subsection (a) of this section because a medical condition of such veteran made it infeasible for such veteran to participate in such a program, the twelve-year period of eligibility shall not run during the period of time that such veteran was so prevented from participating in such a program, and such period of eligibility shall again begin to run on the first day following such veteran's recovery from such condition on which it is reasonably feasible, as determined under regulations which the Administrator shall prescribe, for such veteran to participate in such a program.

(B)(i) Subject to divisions (iii) and (iv) of this subparagraph, in any case in which the Administrator determines that a veteran has been prevented from participating in a vocational rehabilitation program under this chapter within the period of eligibility prescribed in subsection (a) of this section because a condition described in division (ii) of this subparagraph made it infeasible for such veteran to participate in such a program, the twelve-year period of eligibility shall not run during the period of time that such veteran was so prevented from participating in such a program.

(ii) The condition referred to in division (i) of this subparagraph as described in this division is an alcohol or drug dependence or abuse condition of a veteran in a case in which it is determined, under regulations which the Administrator shall prescribe, that—

(I) such veteran (aa) has received recognized treatment for such condition, or (bb) has participated in a program of rehabilitation for such condition, and

(II) such condition is sufficiently under control to enable such veteran to participate in a vocational rehabilitation program under this chapter.

(iii) Subdivision (i) of this subparagraph applies only if the veteran has filed an application under this paragraph within one year after (I) the last date of the period of eligibility otherwise applicable under this section, (II) the termination of the last period of such treatment or such program of rehabilitation, or (III) the date on which final regulations prescribed pursuant to division (i) of this

subparagraph are published in the Federal Register, whichever is the latest.

(iv) The period of time during which, pursuant to division (i) of this subparagraph, the twelve-year period of eligibility does not run shall be limited to the period during which the veteran was receiving treatment or the period of time the veteran was participating in a program of rehabilitation for such condition plus such additional length of time as the veteran demonstrates, to the satisfaction of the Administrator, that the veteran was prevented by such condition from participating in a vocational rehabilitation program under this chapter, but in no event shall such period of time be more than four years.

(v) When, pursuant to division (i) of this subparagraph, a period of eligibility does not run for a period of time, such period of eligibility shall again begin to run on the first day, following such condition becoming sufficiently under control to enable such veteran to participate in such a program of vocational rehabilitation, on which it is reasonably feasible, as determined under such regulations, for such veteran to participate in such a program.

* * * * * * *

§ 1508. Allowances

(a)(1) * * *

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(g)[(1) Notwithstanding any other provision of this title and subject to the provisions of paragraph (2) of this subsection, no] No subsistance allowance may be paid under this section in the case of any veteran who is pursuing a rehabilitation program under this chapter while incarcerated in a Federal, State, or local penal institution for conviction of a felony.

(2) Paragraph (1) of this subsection shall *not* apply in the case of any veteran who is pursuing a rehabilitation program under this chapter while residing in a halfway house or participating in a work-release program in connection with such veteran's conviction of a felony. [if the Administrator determines that all the veteran's living expenses are being defrayed by a Federal, State, or local government.]

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CHAPTER 32—POST-VIETNAM ERA VETERANS' EDUCATIONAL ASSISTANCE

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Subchapter II—Eligibility; Contributions; and Matching Fund

§ 1622. Contributions; matching fund

(a) * * *

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(d) Subject to the maximum contribution prescribed by subsection (a) of this section, a participant shall be permitted, while serving on active duty, to make a lump-sum contribution to the Fund.

A lump-sum contribution to the fund by a participant shall be in addition to or in lieu of monthly deductions made from such participant's military pay and shall be considered, for the purposes of paragraph (2) of section 1631(a), to have been made by monthly deductions from such participant's military pay in the amount of **[**$75**]** *$100* per month or in such lesser amount as may be specified by such participant pursuant to regulations issued jointly by the Secretary and the Administrator.

(e) The Administrator may receive from the Secretary and disburse on behalf of the Secretary funds for administering the education assistance program authorized by section 2141 of title 10 and may use the fund for such purpose.

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CHAPTER 34—VETERANS' EDUCATIONAL ASSISTANCE

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SUBCHAPTER V—SPECIAL ASSISTANCE FOR THE EDUCATIONALLY DISADVANTAGED

1690. Purpose.
1691. Elementary and secondary education and preparatory educational assistance.
1692. Special supplementary assistance.
1693. Effect on educational entitlement.
1694. Reimbursement by the Secretary of Defense.

Subchapter I—Purpose—Definitions

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§ 1652. Definitions

(a) * * *

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(b) The term "program of education" means any curriculum or any combination of unit courses or subjects pursued at an educational institution which is generally accepted as necessary to fulfill requirements for the attainment of a predetermined and identified educational, professional, or vocational objective. Such term also means any curriculum of unit courses or subjects pursued at an educational institution which fulfill requirements for the attainment of more than one predetermined and identified educational, professional, or vocational objective if all the objectives pursued are generally recognized as being reasonably related to a single career field. Such term also means any unit course or subject, or combination of courses or subjects, pursued by an eligible veteran at an educational institution, required by the Administrator of the Small Business Administration as a condition to obtaining financial assistance under the provisions of **[**402(a) of the Economic Opportunity Act of 1964 (42 U.S.C. 2902(a))**]** *section 7(i) of the Small Business Act (15 U.S.C. 636(i)).*

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Subchapter II—Eligibility and Entitlement

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§ 1662. Time limitations for completing a program of education

Delimiting Period for Completion

(a)(1) No educational assistance shall be afforded an eligible veteran under this chapter beyond the date 10 years after the veteran's last discharge or release from active duty after January 31, 1955, *and before January 1, 1980;* except that, in the case of any eligible veteran who was prevented from initiating or completing such veteran's chosen program of education within such time period because of a physical or mental disability which was not the result of such veteran's own willful misconduct *or because of a condition (and under the circumstances) described in paragraph (4) of this subsection,* such veteran shall, upon application, made within one year after (A) the last date of the delimiting period otherwise applicable under this section, (B) the termination of the period of such mental or physical disability, or (C) the effective date of the Veterans' Rehabilitation and Education Amendments of 1980, whichever is the latest be granted an extension of the applicable delimiting period for such length of time *(except as provided in paragraph (4)(B)(ii) of this subsection)* as the Administrator determines, from the evidence, that such veteran was so prevented from initiating or completing such program of education. When an extension of the applicable delimiting period is granted a veteran under the preceding sentence *because of such disability,* the delimiting period with respect to such veteran will again begin running on the first day following such veteran's recovery from such disability on which it is reasonably feasible, as determined in accordance with regulations which the Administrator shall prescribe, for such veteran to initiate or resume pursuit of a program of education with educational assistance under this chapter.

(2)(A) Notwithstanding the provisions of paragraph (1) of this subsection, any veteran shall be permitted to use any of such veteran's unused entitlement under section 1661 of this title for the purposes of eligibility for an education loan, pursuant to the provisions of subchapter III of chapter 36 of this title, after the delimiting date otherwise applicable to such veteran under such paragraph (1), if such veteran was pursuing an approved program of education on a full-time basis at the time of the expiration of such veteran's eligibility.

(B) Notwithstanding any other provision of this chapter or chapter 36 of this title, any veteran whose delimiting period is extended under subparagraph (A) of this paragraph may continue to use any unused loan entitlement under this paragraph as long as the veteran continues to be enrolled on a full-time basis in pursuit of the approved program of education in which such veteran was enrolled at the time of expiration of such veteran's eligibility (i) until such entitlement is exhausted, (ii) until the expiration of two years after the date of enactment of this paragraph or the date of the expiration of the delimiting date otherwise applicable to such veteran under paragraph (1) of this subsection, whichever is later, or (iii) until such veteran has completed the approved program of education in which such veteran was enrolled at the end of the delimiting period referred to in paragraph (1) of this subsection, whichever occurs first.

(3)(A) Subject to subparagraph (C) of this paragraph and notwithstanding the provisions of paragraph (1) of this subsection, an eligible veteran who served on active duty during the Vietnam era shall be permitted to use any of such veteran's unused entitlement under section 1661 of this title for the purpose of pursuing—

(i) a program of apprenticeship or other on-job training;

(ii) a course with an approved vocational objective; or

(iii) a program of secondary education, if the veteran does not have a secondary school diploma (or an equivalency certificate).

(B) Upon completion of a program or course pursued by virtue of eligibility provided by this paragraph, the Administrator shall provide the veteran with such employment counseling as may be necessary to assist the veteran in obtaining employment consistent with the veteran's abilities, aptitudes, and interests.

(C)(i) Educational assistance [may] *shall* be provided a veteran for pursuit of a program or course described in clause (i) or (ii) of subparagraph (A) of this paragraph using eligibility provided by this paragraph [only if the veteran has been determined by the Administrator to be in need of such a program or course in order to achieve a suitable occupational or vocational objective] *unless the Administrator determines, based on an examination of the veteran's employment and training history, that the veteran is not in need of such a program or course in order to obtain a reasonably stable employment situation consistent with the veteran's abilities and aptitudes.* Any such determination shall be made in accordance with regulations which the Administrator shall prescribe.

(ii) Educational assistance provided a veteran for pursuit of a program described in clause (iii) of subparagraph (A) of this paragraph using eligibility provided by this paragraph shall be provided at the rate determined under section 1691(b)(2) of this title.

(D) Educational assistance may not be provided by virtue of this paragraph after December 31, [1983] *1984*.

(4)(A) A condition referred to in paragraph (1) of this subsection as described in this paragraph is an alcohol or drug dependence or abuse condition of a veteran in a case in which it is determined, under regulations which the Administrator shall prescribe, that——

(i) such veteran (I) has received recognized treatment for such condition, or (II) has participated in a program of rehabilitation for such condition, and

(ii) such condition is sufficiently under control to enable such veteran to pursue such veteran's chosen program of education under this chapter.

(B)(i) Notwithstanding the provisions of paragraph (1) of this subsection, a veteran may be granted an extension of the applicable delimiting period because of such condition upon application for such extension made within one year after (I) the last date of the delimiting period otherwise applicable under this section, (II) the termination of the last period of such treatment or such program of rehabilitation, or (III) the date on which final regulations prescribed pursuant to subparagraph (A) of this paragraph are published in the Federal Register, whichever is the latest.

(ii) An extension of the applicable delimiting period because of such condition shall be limited to the period of time the veteran was receiving treatment or the period of time the veteran was participating in a program of rehabilitation for such condition plus such additional length of time as the veteran demonstrates, to the satisfaction of the Administrator, that the veteran was prevented by such condition from initiating or completing such program of education, but in no event shall the extension be for more than four years. When such extension is granted, the delimiting period with respect to such veteran will again begin running on the first day, following such condition becoming sufficiently under control to enable such veteran to pursue such veteran's chosen program of education under this chapter, on which it is reasonably feasible, as determined in accordance with such regulations, for such veteran to initiate or resume pursuit of a program of education with educational assistance under this chapter.

Correction of Discharge

(b) In the case of any eligible veteran who has been prevented, as determined by the Administrator, from completing a program of education under this chapter within the period prescribed by subsection (a), because the veteran had not met the nature of discharge requirements of this chapter before a change, correction, or modification of a discharge or dismissal made pursuant to section 1553 of title 10, the correction of the military records of the proper service department under section 1552 of title 10, or other corrective action by competent authority, then the 10-year delimiting period shall run from the date the veteran's discharge or dismissal was changed, corrected, or modified.

Savings Clause

(c) In the case of any eligible veteran who was discharged or released from active duty before the date for which an educational assistance allowance is first payable under this chapter, the 10-year delimiting period shall run from such date, if it is later than the date which otherwise would be applicable. In the case of any eligible veteran who was discharged or released from active duty before the date of enactment of this sentence and who pursues a course of farm cooperative training, apprenticeship or other training on the job, the 10-year delimiting period shall run from the date of enactment of this sentence, if it is later than the date which would otherwise be applicable.

(d) In the case of any veteran (1) who served on or after January 31, 1955, (2) who became eligible for educational assistance under the provisions of this chapter or chapter 36 of this title, and (3) who, subsequent to the veteran's last discharge or release from active duty, was captured and held as a prisoner of war by a foreign government or power, there shall be excluded, in computing the veteran's 10-year period of eligibility for educational assistance, any period during which the veteran was so detained and any period immediately following the veteran's release from such detention during which the veteran was hospitalized at a military, civilian, or Veterans' Administration medical facility.

[(e) No educational assistance shall be afforded any eligible veteran under this chapter or chapter 36 of this title after December 31, 1989.]

* * * * * * *

Subchapter III—Enrollment

* * * * * * *

§ 1673. Disapproval of enrollment in certain courses

(a)[(1)] The Administrator shall not approve the enrollment of an eligible veteran in—

[(A)]*(1)* any bartending course or personality development course;

[(B)]*(2)* any [course with a vocational objective, unless the eligible veteran or the institution offering such course presents evidence satisfactory to the Administrator showing that at least one-half of the persons who completed such course over such period, and who are not unavailable for employment, attained employment for an average of ten hours a week in an occupational category for which the course was designed to provide training;] *sales or sales management course which does not provide specialized training within a specific vocational field;*

[(C)]*(3)* any type of course which the Administrator finds to be avocational or recreational in character (or the advertising for which the Administrator finds contains significant avocational or recreational themes) unless the veteran submits justification showing that the course will be of bona fide use in the pursuit of the veteran's present or contemplated business or occupation; or

[(D)]*(4)* any independent study program except one leading to a standard college degree.

[(2)(A) For the purposes of clause (B) of paragraph (1) of this subsection, in computing the number of persons who discontinued or completed a course over any two-year period, there shall not be included in such number those persons who received assistance under this title for pursuing such course while serving on active duty.

[(B) The provisions of clause (B) of paragraph (1) of this subsection shall not apply in the case of a particular course offered by an educational institution in a particular year if the total number of eligible veterans and eligible persons (as defined in section 1701(a)(1) of this title) enrolled in the institution during the two-year period preceding such year did not exceed 35 percent of the total enrollment in such institution during such period and the course has met the requirements of such clause for any two-year period ending on or after the date of the enactment of this paragraph.

[(C) The Administrator may waive the requirements under clause (B) of paragraph (1) of this subsection if the Administrator determines, under regulations which the Administrator shall prescribe, that such requirements would work an undue administrative hardship on an educational institution because of the small proportion of eligible veterans and eligible persons (as defined in section 1701(a)(1) of this title) enrolled in such institution.]

(b) The Administrator shall not approve the enrollment of an eligible veteran in any course of flight training other than one given by an educational institution of higher learning for credit toward a standard college degree the eligible veteran is seeking.

(c) The Administrator shall not approve the enrollment of an eligible veteran in any course to be pursued by radio or by open circuit television, except that the Administrator may approve the enrollment of an eligible veteran in a course, to be pursued in residence, leading to a standard college degree which includes, as an integral part thereof, subjects offered through open circuit television.

(d) The Administrator shall not approve the enrollment of any eligible veteran, not already enrolled, in any course (other than one offered pursuant to subchapter V *except to the extent provided for in section 1691(c) of this title* any farm cooperative training course, or any course described in section 1789(b)(6) of this title) for any period during which the Administrator finds that more than 85 per centum of the students enrolled in the course are having all or part of their tuition, fees, or other charges paid to or for them by the educational institution or by the Veterans' Administration under this title. The Administrator may waive the requirements of this subsection, in whole or in part, if the Administrator determines, pursuant to regulations which the Administrator shall prescribe, it to be in the interest of the eligible veteran and the Federal Government. The provisions of this subsection shall not apply to any course offered by an educational institution if the total number of veterans and persons receiving assistance under this chapter or chapter 31, 32, 35, or 36 of this title who are enrolled in such institution equals 35 per centum or less, or such other per centum as the Administrator prescribes in regulations, of the total student enrollment at such institution (computed separately for the main campus and any branch or extension of such institution), except that the Administrator may apply the provisions of this subsection with respect to any course in which the Administrator has reason to believe that the enrollment of such veterans and persons may be in excess of 85 per centum of the total student enrollment in such course.

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Subchapter IV—Payments to Eligible Veterans; Veteran-Student Services

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§ 1682. Computation of eductional assistance allowances

(a)(1) Except as provided in subsection (b), [or (c)] *(c), or (g)* of this section, or section, 1787 of this title, while pursuing a program of education under this chapter of half-time or more, each eligible veteran shall be paid the monthly educational assistance allowance set forth in column II, III, IV, or V (whichever is applicable as determined by the veteran's dependency status) opposite the applicable type of program as shown in column I:

* * * * * * *

(e) The educational assistance allowance of an eligible veteran pursuing an independent study program which leads to a standard college degree shall be computed at the rate provided in subsection (b)*(2)* of this section. If the entire training is to be pursued by independent study, entitlement shall be charged **[**at**]** *in accordance with the rate at which training is pursued, but in no event at more than* one-half cf the full-time institutional rate. In any case in which independent study is combined with resident training, the educational assistance allowance shall be paid at the applicable institutional rate based on the total training time determined by adding the number of semester hours (or the equivalent thereof) of resident training to the number of semester hours (or the equivalent thereof) of independent study that do not exceed the number of semester hours (or the equivalent thereof) required for the less than half-time institutional rate, as determined by the Administrator, for resident training. A veteran's entitlement shall be charged for a combination of independent study and resident training on the basis of the applicable monthly training time rate as determined under section 1788 of this title.

(f) The educational assistance allowance of an eligible veteran pursuing a course in part by open circuit television shall be computed in the same manner that such allowance is computed under subsection (e) of this section for an independent study program.

CHAPTER 35—SURVIVIORS' AND DEPENDENTS' EDUCATIONAL ASSISTANCE

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Subchapter II—Eligibility and Entitlement

* * * * * * *

§ 1712. Periods of eligibility

(a) * * *

* * * * * * *

(b)(1) No person made eligible by section 1701(a)(1)(B) or (D) of this chapter may be afforded educational assistance under this chapter beyond 10 years after whichever of the following last occurs:

(A) The date on which the Administrator first finds the spouse from whom eligibility is derived has a service-connected total disability permanent in nature.

(B) The date of death of the spouse from whom eligibility is derived who dies while a total disability evaluated as permanent in nature was in existence.

(C) The date on which the Administrator determines that the spouse from whom eligibility is derived died of a service-connected disability.

(2) Notwithstanding the privisions of paragraph (1) of this subsection, in the case of any eligible person (as defined in section

1701(a)(1)(B), (C), or (D) of this chapter) who was prevented from initiating or completing such person's chosen program of education within such period because of a physical or mental disability which was not the result of such person's own willful misconduct *or because of a condition (and under the circumstances) described in paragraph (3)(A) of this subsection,* such person shall, upon application made within one year after (A) the last date of the delimiting period otherwise applicable under this section, (B) the termination of the period of mental or physical disability, or (C) the effective date of the Veterans' Rehabilitation and Education Amendments of 1980, whichever is the latest, be granted an extension of the applicable delimiting period for such length of time *(except as provided in paragraph (3)(B)(ii) of this subsection)* as the Administrator determines, from the evidence, that such person was so prevented from initiating or completing such program of education. When an extension of the applicable delimiting period is granted under the exception in the preceding sentence *because of such disability,* the delimiting period will again begin running on the first day following such eligible person's recovery from such disability on which it is reasonalby feasible, as determined in accordance with regulations which the Administrator shall prescribe, for such eligible person to initiate or resume pursuit of a program of education with educational assistance under this chapter.

(3)(A) A condition referred to in paragraph (2) of this subsection as described in this paragraph is an alcohol or drug dependence or abuse condition of an eligible person in a case in which it is determined, under regulations which the Administrator shall prescribe, that—

(i) such person (I) has received recognized treatment for such condition, or (II) has participated in a program of rehabilitation for such condition, and

(ii) such condition is sufficiently under control to enable such person to pursue such person's chosen program of education under this chapter.

(B)(i) Notwithstanding the provisions of paragraph (2) of this subsection, and eligible person may be granted an extension of the applicable delimiting period because of such condition upon application for such extension made within one year after (I) the last date of the delimiting period otherwise applicable under this section, (II) the termination of the last period of such treatment or such program of rehabilitation, or (III) the date on which final regulations prescribed pursuant to subparagraph (A) of this paragraph are published in the Federal Register, whichever is the latest.

(ii) and extension of the appliable delimiting period because of such condition shall be limited to the period of time the eligible person was receiving treatment or the period of time such person was participating in a program of rehabilitation for such condition plus such additional length of time as such person demonstrates, to the satisfaction of the Adminstrator, that such person was prevented by such condition from initiating or completing such program of education, but in no event shall the extension be for more than four years. When such extension is granted, the delimiting period with respect to such person will again begin running on the first day, following such condition becoming sufficiently under control to enable

such person to pursue such person's chosen program of education under this chapter, on which it is reasonably feasible, as determined in accordance with such regulations, for such person to intitate or resume pursuit of a program of education with educational assistance under this chapter.

* * * * * * *

Subchapter III—Program of Education

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§ 1723. Disapproval of enrollment in certain courses

(a) **[**(1)**]** The Administrator shall not approve the enrollment of an eligible person in—

[(A)**]** *(1)* any bartending course or personality development course;

[(B)**]** *(2)* any **[**course with a vocational objective, unless the eligible person or the institution offering such course presents evidence satisfactory to the Administrator showing that at least one-half of the persons who completed such course over such period, and who are not unavailable for employment, attained employment for an average of ten hours a week in an occupational category for which the course was designed to provide training;**]** *sales or sales management course which does not provide specialized training within a specific vocational field;*

[(C)**]** *(3)* any type of course which the Administrator finds to be avocational or recreational in character (or the advertising for which the Administrator finds contains significant avocational or recreational themes) unless the eligible person submits justification showing that the course will be of bona fide use in the pursuit of the person's present or contemplated business or occupation; or

[(D)**]** *(4)* any independent study program except one leading to a standard college degree.

[(2) (A) For the purposes of clause (B) of paragraph (1) of this subsection, in computing the number of persons who discontinued or completed a course over any two-year period, there shall not be included in such number those persons who received assistance under this title for pursuing such course while serving on active duty.

[(B) The provisions of clause (B) of paragraph (1) of this subsection shall not apply in the case of a particular course offered by an educational institution in a particular year if the total number of eligible veterans (as defined in section 1652(a)(1) of this title) and eligible persons enrolled in the institution during the two-year period preceding such year did not exceed 35 percent of the total enrollment in such institution during such period and the course has met the requirements of such clause for any two-year period ending on or after the date of the enactment of this paragraph.

[(C) The Administrator may waive the requirements under clause (B) of paragraph (1) of this subsection if the Administrator determines, under regulations which the Administrator shall prescribe, that such requirements would work an undue administrative hardship on an educational institution because of the small proportion of eligible veterans (as defined in section 1652(a)(1) of this title) and eligible persons enrolled in such institution.]

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CHAPTER 36—ADMINISTRATION OF EDUCATIONAL BENEFITS

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§ 1780. Payment of educational assistance or subsistence allowances

Period for Which Payment May Be Made

(a) Payment of educational assistance or subsistence allowances to eligible veterans or eligible persons pursuing a program of education or training, other than a program by correspondence, in an educational institution under chapter 31, 34, or 35 of this title shall be paid as provided in this section and, as applicable, in section [1504,] *1508,* 1682, 1691, or 1732 of this title. Such payments shall be paid only for the period of such veterans' or persons' enrollment in, and pursuit of, such program, but no amount shall be paid—

(1) to any eligible veteran or eligible person enrolled in a course which leads to a standard college degree for any period when such veteran or person is not pursuing such veteran's or person's course in accordance with the regularly established policies and regulations of the educational institution, with the provisions of such regulations as may be prescribed by the Administrator pursuant to subsection (g) of this section, and with the requirements of this chapter or of chapter 34 or 35 of this title, but payment may be made for an actual period of pursuit of one or more unit subjects pursued for a period of time shorter than the enrollment period at the educational institution;

(2) to any eligible veteran or eligible person enrolled in a course which does not lead to a standard college degree (excluding programs of apprenticeship and programs of other on-job training authorized by section 1787 of this title) for any day of absence in excess of thirty days in a twelve-month period, not counting as absences weekends or legal holidays (or customary vacation periods connected therewith) established by Federal or State law (or in the case of the Republic of the Philippines, Philippine law) during which the institution is not regularly in session and periods (not to exceed five days in any twelve-month period) when the institution is not in session because of teacher conferences or teacher training sessions;

(3) to any eligible veteran or person for auditing a course;

(4) to any eligible veteran or person for a course for which the grade assigned is not used in computing the requirements for graduation including a course from which the student withdraws unless the Administrator finds there are mitigating circumstances; *or*

(5) to any eligible veteran or person for pursuit of a program of education exclusively by correspondence as authorized under

section 1786 of this title or for the pursuit of a correspondence portion of a combination correspondence-residence course leading to a vocational objective where the normal period of time required to complete such correspondence course or portion is less than 6 months. A certification as to the normal period of time required to complete the course must be made to the Administrator by the educational institution[; or].

[(6) to any eligible veteran or person incarcerated in a Federal, State, or local prison or jail for any course (A) to the extent the tuition and fees of the veteran or person are paid under any Federal program (other than a program administered by the Administrator) or under any State or local program, or (B) for which there are no tuition and fees.]

Notwithstanding the foregoing, the Administrator may, subject to such regulations as the Administrator shall prescribe, continue to pay allowances to eligible veterans and eligible persons enrolled in courses set forth in clause (1) or (2) of this subsection—

(A) during periods when the schools are temporarily closed under an established policy based upon an Executive order of the President or due to an emergency situation, and such periods shall not be counted as absences for the purposes of clause (2);

(B) during periods between consecutive school terms where such veterans or persons transfer from one approved educational institution to another approved educational institution for the purpose of enrolling in and pursuing a similar course at the second institution if the period between such consecutive terms does not exceed 30 days, but such periods shall be counted as absences for the purposes of clause (2); or

(C) during periods between a semester, term, or quarter where the educational institution certifies the enrollment of the eligible veteran or eligible person on an individual semester, term, or quarter basis if the interval between such periods does not exceed 1 full calendar month, but such periods shall be counted as absences for the purposes of clause (2).

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§ 1790. Overcharges by educational institutions; discontinuance of allowances; examination of records; false or misleading statements

Overcharges by Educational Institutions

(a) * * *

* * * * * * *

Discontinuance of Allowances

(b)(1) The Administrator may discontinue the educational assistance allowance of any eligible veteran or eligible person if the Administrator finds that the program of education or any course in which the veteran or person is enrolled fails to meet any of the requirements of this chapter or chapter 34 or 35 of this title, or if the Administrator finds that the educational institution offering such program or course has violated any provisions of this chapter or chapter 34 or 35, or fails to meet any of the requirements of such chapters.

(2) **[**Any**]** *Except as provided in paragraph (3) of this subsection, any* action by the Administrator under paragraph (1) of this subsection to discontinue (including to suspend) assistance provided to any eligible veteran or eligible person under this chapter or chapter 31, 32, 34, or 35 of this title shall be based upon evidence that the veteran or eligible person is not or was not entitled to such assistance. Whenever the Administrator so discontinues any such assistance, the Administrator shall concurrently provide written notice to such veteran or person of such discontinuance and that such veteran or person is entitled thereafter to a statement of the reasons for such action and an opportunity to be heard thereon.

Examination of Records

(c) Notwithstanding any other provision of law, the records and accounts of educational institutions pertaining to eligible veterans or eligible persons who received educational assistance under this chapter or chapter 31, 32, 34, or 35 of this title, as well as the records of other students which the Administrator determines necessary to ascertain institutional compliance with the requirements of such chapters, shall be available for examination by duly authorized representatives of the Government.

False or Misleading Statements

(d) Whenever the Administrator finds that an educational institution has willfully submitted a false or misleading claim, or that a veteran or person, with the complicity of an educational institution, has submitted such a claim, the Administrator shall make a complete report of the facts of the case to the appropriate State approving agency and, where deemed advisable, to the Attorney General of the United States for appropriate action.

(3)(A) The Administrator may suspend educational assistance to eligible veterans and eligible persons already enrolled, and may disapprove the enrollment or reenrollment of any eligible veteran or eligible person, in any course as to which the Administrator has evidence showing a substantial pattern of eligible veterans or eligible persons, or both, who are receiving such assistance by virtue of their enrollment in such course but who are not entitled to such assistance because (i) the course approval requirements of this chapter are not being met, or (ii) the educational institution offering such course has violated one or more of the recordkeeping or reporting requirements of this chapter or chapter 32, 34, or 35 of this title.

(B)(i) Action may be taken under subparagraph (A) of this paragraph only if (I) the Administrator has provided the State approving agency concerned and such institution with written notification of any such failure to meet such approval requirements and any such violation of such recordkeeping or reporting requirements, (II) such institution (aa) has refused to take corrective action, or (bb) within sixty days after such notification (or within such other reasonable period as the Administrator determines is appropriate) has failed to take corrective action, and (III) the Administrator has, not

less than thirty days prior to taking action under such subparagraph, provided each eligible veteran and eligible person already enrolled in such course with written notification of the Administrator's intention to take such action, together with the reasons therefor, if such corrective action is not taken within such sixty days and of the date on which the Administrator intends to take action under such subparagraph.

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Subchapter III—Education Loans to Eligible Veterans and Eligible Persons

§ 1798. Eligibility for loans; amount and conditions of loans; interest rate on loans

(a)(1) * * *

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(e)(1) Except as provided in paragraph (2) of this subsection, whenever the Administrator determines that a default has occurred on any loan made under this subchapter, the Administrator shall declare an overpayment, and such overpayment shall be recovered from the veteran or person concerned in the same manner as any other debt due the United States.

(2) If a veteran or person who has received a loan under this section dies or becomes permanently and totally disabled, then the Administrator shall discharge the veteran's or person's liability on such loan by repaying the amount owed on such loan.

(3) The Administrator shall submit to the appropriate committees of the Congress not later than December 31 of each year a report on the current results of the continuing review required by subsection (g)(1) of this section to be made regarding the default experience with respect to loans made under this section and any steps being taken to reduce default rates on such loans. ⟦Such report shall include in maximum feasible detail—

⟦(A) data regarding the cumulative default experience, and the default experience during the preceding fiscal year, with respect to such loans;

⟦(B) data regarding the default experience and default rate at each educational institution (i) with respect to loans made under this section in connection with accelerated payments under section 1682A of this title, and (ii) with respect to other loans made under this section; and

⟦(C) comparisons of the collective default experience and default rates with respect to such loans at all such institutions to the default experience and default rates with respect to such loans at each such institution.⟧

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CHAPTER 37—HOUSING AND SMALL BUSINESS LOANS

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SUBCHAPTER II—LOANS

1810. Purchase or construction of homes.

1811. Direct loans to veterans.
1815. Insurance of loans.
1816. Procedure on default.
1817. Release from liability under guaranty.
1818. Service after January 31, 1955, and prior to August 5, 1964, or after May 7, 1975.
1819. Loans to purchase [mobile] *manufactured* homes and [mobile home] lots.

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Subchapter I—General

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§ 1803. Basic provisions relating to loan guaranty

(a)(1) Any loan to a veteran eligible for benefits under this chapter, if made for any of the purposes, and in compliance with the provisions, specified in this chapter is automatically guaranteed by the United States in an amount not more than 60 per centum of the loan if the loan is made for any of the purposes specified in section 1810 of this title.

(2) Any unused entitlement of World War II or Korean conflict veterans which expired under provisions of law in effect prior to the date of enactment of the Veterans' Housing Act of 1970 is hereby restored and shall not expire until used.

(b) The liability of the United States under any guaranty, within the limitations of this chapter, shall decrease or increase pro rata with any decrease or increase of the amount of the unpaid portion of the obligation.

(c)(1) Loans guaranteed or insured under this chapter shall be payable upon such terms and conditions as may be agreed upon by the parties thereto, subject to the provisions of this chapter and regulations of the Administrator issued pursuant to this chapter, and shall bear interest not in excess of such rate as the Administrator may from time to time find the loan market demands, except that in establishing the rate of interest that shall be applicable to such loans, the Administrator shall consult with the Secretary of Housing and Urban Development regarding the rate of interest the Secretary considers necessary to meet the mortgage market for home loans insured under section 203(b) of the National Housing Act, and, to the maximum extent practicable, carry out a coordinated policy on interest rates on loans insured under such section 203(b) and on loans guaranteed or insured under this chapter. In establishing rates of interest under this paragraph for one or more of the purposes described in clauses (4) and (7) of section 1810(a) of this title, the Administrator may establish a rate or rates higher than the rate specified for other purposes under such section, but any such rate may not exceed such rate as the Administrator may from time to time find the loan market demands for loans for such purposes.

(2) The provisions of the Servicemen's Readjustment Act of 1944 which were in effect before April 1, 1958, with respect to the interest chargeable on loans made or guaranteed under such Act shall, notwithstanding the provisions of paragraph (1) of this subsection, continue to be applicable—

(A) to any loan made or guaranteed before April 1, 1958; and

(B) to any loan with respect to which a commitment to guarantee was entered into by the Administrator before April 1, 1958.

(3) This section shall not be construed to prohibit a veteran from paying to a lender any reasonable discount required by such lender, when the proceeds from the loan are to be used:

(A) to refinance indebtedness pursuant to clause (5) or (8) of section 1810(a) of this title or section 1819(a)(1)(F) of this title;

(B) to repair, alter, or improve a farm residence or other dwelling pursuant to clauses (4) and (7) of section 1810(a) of this title;

(C) to construct a dwelling or farm residence on land already owned or to be acquired by the veteran except where the land is directly or indirectly acquired from a builder or developer who has contracted to construct such dwelling for the veteran; [or]

(D) to purchase a dwelling from a class of sellers which the Administrator determines are legally precluded under all circumstances from paying such a discount if the best interest of the veteran would be so served[.]*; or*

(E) to refinance indebtedness and purchase a manufactured-home lot pursuant to section 1819(a)(1)(G) of this title, but only with respect to that portion of the loan used to refinance such indebtedness.

* * * * * * *

§ 1811. Direct loans to veterans

(a) * * *

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(c) No loan may be made under this section to a veteran unless the veteran shows to the satisfaction of the Administrator that—

(1) the veteran is unable to obtain from a private lender in such housing credit shortage area, at an interest rate not in excess of the rate authorized for guaranteed home loans or [mobile] *manufactured* home loans, as appropriate, a loan for such purpose for which the veteran is qualified under section 1810 or 1819 of this title, as appropriate; and

(2) the veteran is unable to obtain a loan for such purpose from the Secretary of Agriculture under sections 1000–1029 of title 7 or under sections 1471–1483 of title 42.

(d)(1) Loans made under this section shall bear interest at a rate determined by the Administrator, not to exceed the rate authorized for guaranteed home loans or [mobile] *manufactured home* loans, as appropriate, and shall be subject to such requirements or limitations prescribed for loans guaranteed under this title as may be applicable.

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Subchapter II—Loans

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§ 1819. Loans to purchase [mobile] *manufactured* homes and [mobile home] lots

(a)(1) Notwithstanding any other provision of this chapter, any loan to a veteran eligible for the housing loan benefits of this chapter, if made pursuant to the provisions of this section, may be guaranteed if such loan is for [one of the following] *the purpose or* purposes *specified in one of the following clauses*:

(A) To purchase a lot on which to place a [mobile] *manufactured* home already owned by the veteran.

(B) To purchase a single-wide [mobile] *manufactured* home.

(C) To purchase a single-wide [mobile] *manufactured* home and a lot on which to place such home.

(D) To purchase a double-wide [mobile] *manufactured* home.

(E) To purchase a double-wide [mobile] *manufactured* home and a lot on which to place such home.

(F) To refinance in accordance with paragraph (4) of this subsection an existing loan guaranteed, insured, or made under this section.

(G) (i) To refinance in accordance with paragraph (5) of this subsection an existing loan that was made for the purchase of and is secured by a manufactured home, and (ii) to purchase a lot on which such manufactured home is or will be placed.

(2) A loan for [any of the purposes described in paragraph (1) of this subsection] *a purpose specified in any one of the clauses (A) through (E) or (G) of paragraph (1) of this subsection or for the purposes specified in clause (G) of such paragraph* may include an amount determined by the Administrator to be appropriate to cover the cost of necessary preparation of a lot already owned or to be acquired by the veteran, including the costs of installing utility connections and sanitary facilities, of paving, and of constructing a suitable pad for the [mobile] *manufactured* home.

(3) Any loan made for the purposes described in clause [(C) or (E)] *(C), (E), or (G)* of paragraph (1) of this subsection shall be considered as part of one loan. The transaction may be evidenced by a single loan instrument or by separate loan instruments for (A) that portion of the loan which finances the purchase of the [mobile] *manufactured* home, and (B) that portion of the loan which finances the purchase of the lot and the necessary preparation of such lot.

(4)(A) For a loan to be guaranteed for the purpose specified in clause (F) of paragraph (1) of this subsection—

(i) the interest rate of the loan must be less than the interest rate of the loan being refinanced;

(ii) the loan must be secured by the same [mobile] *manufactured* home or [mobile-home] *manufactured-home* lot, or [mobile] *manufactured* home and [mobile-home] *manufactured-home* lot, as was the loan being refinanced and such [mobile] *manufactured* home (or a [mobile] *manufactured* home on such lot) must be owned and occupied by the veteran as such veteran's home;

(iii) the amount of the loan may not exceed an amount equal to the sum of the balance of the loan being refinanced and such closing costs (including any discount permitted pursuant to section 1803(c)(3)(A) of this title) as may be authorized by the Administrator, under regulations which the Administrator shall prescribe, to be included in such loan;

(iv) the amount of the guaranty of the loan may not exceed the original guaranty amount of the loan being refinanced; and

(v) the term of the loan may not exceed the original term of the loan being refinanced.

(B) A loan to a veteran may be guaranteed by the Veterans' Administration under this chapter for the purpose specified in clause (F) of paragraph (1) of this subsection without regard to the amount of outstanding guaranty entitlement available for use by such veteran, and the amount of such veteran's guaranty entitlement shall not be charged as a result of any guaranty provided for such purpose. For purposes of section 1802(b) of this title, such loan shall be deemed to have been obtained with the guaranty entitlement used to obtain the loan being refinanced.

(C) If a veteran is deceased and if such veteran's surviving spouse was a co-obligor under an existing loan previously guaranteed, insured, or made under this section, such surviving spouse shall, only for the purpose specified in clause (F) of paragraph (1) of this subsection, be deemed to be a veteran eligible for benefits under this chapter.

(5)(A) For a loan to be guaranteed for the purposes specified in clause (G) of paragraph (1) of this subsection—

(i) the loan must be secured by the same manufactured home as was the loan being refinanced and such manufactured home must be owned and occupied by the veteran as such veteran's home; and

(ii) the amount of the loan may not exceed an amount equal to the sum of—

(I) the purchase price of the lot,

(II) the amount (if any) determined by the Administrator to be appropriate under paragraph (2) of this subsection to cover the cost of necessary preparation of such lot,

(III) the balance of the loan being refinanced, and

(IV) such closing costs (including any discount permitted pursuant to section 1803(c)(3)(E) of this title) as may be authorized by the Administrator, under regulations which the Administrator shall prescribe, to be included in such loan.

(B) When a loan is made to a veteran for the purposes specified in clause (G) of paragraph (1) of this subsection, and the loan being refinanced was guaranteed, insured, or made under this section, the portion of the loan made for the purpose of refinancing such loan may be guaranteed by the Veterans' Administration under this chapter without regard to the amount of outstanding guaranty entitlement available for use by such veteran, and the amount of such veteran's guaranty entitlement shall not be charged as a result of any guaranty provided for such purpose. For the purposes of section 1802(b) of this title, such portion of such loan shall be deemed to have been obtained with the guaranty entitlement used to obtain the loan being refinanced.

(b)(1) Use of entitlement under this section for the purchase of a [mobile] *manufactured* home unit shall preclude the use of remaining entitlement for the purchase of an additional [mobile] *manufactured* home unit until the unit which secured the loan has been disposed of by the veteran or has been destroyed by fire or other natural hazard.

(2) The Administrator shall restore entitlement to all housing loan benefits under this chapter for the veteran when the conditions prescribed in section 1802(b) of this title have been met.

(c)(1) Loans for any of the purposes authorized by subsection (a) of this section shall be submitted to the Administrator for approval prior to the closing of the loan, except that the Administrator may exempt any lender of a class listed in section 1802(d) of this title from compliance with such prior approval requirement if the Administrator determines that the experience of such lender or class of lenders in [mobile] *manufactured* home financing warrants such exemption.

(2) Upon determining that a loan submitted for prior approval is eligible for guaranty under this section, the Administrator shall issue a commitment to guarantee such loan and shall thereafter guarantee the loan when made if such loan qualifies therefor in all respects.

(3) The Administrator's guaranty may not exceed the lesser of 50 per centum of the loan amount or the maximum loan guaranty entitlement available, not to exceed $20,000. Payment of a claim under such guaranty shall be made only after liquidation of the security for the loan and the filing of an accounting with the Administrator. In any such accounting the Administrator shall permit to be included therein accrued unpaid interest from the date of the first uncured default to such cutoff date as the Administrator may establish, and the Administrator shall allow the holder of the loan to charge against the liquidation or resale proceeds, accrued interest from the cutoff date established to such further date as the Administrator may determine and such costs and expenses as the Adminstrator determines to be reasonable and proper. The liability of the United States under the guaranty provided for by this section shall decrease or increase pro rata with any decrease or increase of the amount of the unpaid portion of the obligation.

(4) The amount of guaranty entitlement available to a veteran under this section shall not be more than $20,000, less the amount of any such entitlement as may have been used under this section. Use of entitlement under section 1810 or 1811 of this title shall reduce entitlement available for use under this section to the same extent that entitlement available under such section 1810 is reduced below $20,000.

(d)(1) The maturity of any loan guaranteed under this section shall not be more than—

(A) fifteen years and thirty-two days, in the case of a loan for the purchase of a lot;

(B) twenty years and thirty-two days, in the case of a loan for the purchase of—

(i) a single-wide [mobile] *manufactured* home; or

(ii) a single-wide [mobile] *manufactured* home and a lot;

(C) twenty-three years and thirty-two days, in the case of a loan for the purchase of a double-wide [mobile] *manufactured* home; or

(D) twenty-five years and thirty-two days, in the case of a loan for the purchase of a double-wide [mobile] *manufactured* home and a lot.

(2) Nothing in paragraph (1) of this subsection shall preclude the Administrator, under regulations which the Administrator shall prescribe, from consenting to necessary advances for the protection of the security or the holder's lien, to a reasonable extension of the term of such loan, or to a reasonabale reamortization of such loan.

(e) No loan shall be guaranteed under this section unless—

(1) the loan is repayable in approximately equal monthly installments;

(2) the terms of repayment bear a proper relationship to the veteran's present and anticipated income and expenses, and the veteran is a satisfactory credit risk, taking into account the purpose of this program to make available lower cost housing to low and lower income veterans, especially those who have been recently discharged or released from active military, naval, or air service, who may not have previously established credit ratings;

(3) the loan is secured by a first lien on the [mobile] *manufactured* home purchased with the proceeds of the loan and on any lot acquired or improved with the proceeds of the loan;

(4) the amount of the loan to be paid by the veteran is not in excess of the amount determined to be reasonable, based upon—

(A) with respect to any portion of the loan to purchase a new [mobile] *manufactured* home, such cost factors as the Administrator considers proper to take into account;

(B) with respect to any portion of the loan to purchase a used [mobile] *manufactured* home, the reasonable value of the property, as determined by the Administrator;

(C) with respect to any portion of the loan to purchase a lot, the reasonable value of such lot, as determined by the Administrator; and

(D) with respect to any portion of the loan to cover the cost of necessary site preparation, an appropriate amount, as determined by the Administrator;

(5) the veteran certifies, in such form as the Administrator shall prescribe, that the veteran will personally occupy the property as the veteran's home;

(6) the [mobile] *manufactured* home is or will be placed on a site which meets specifications which the Administrator shall establish by regulation; and

(7) the interest rate to be charged on the loan does not exceed the permissible rate established by the Administrator.

(f) The Administrator shall establish such rate of interest for [mobile] *manufactured* home loans and [mobile] *manufactured* home lot loans as the Administrator determines to be necessary in order to assure a reasonable supply of [mobile] *manufactured* home loan financing for veterans under this section.

(g) The Administrator shall promulgate such regulations as the Administrator determines to be necessary or appropriate in order to fully implement the provisions of this section, and such regulations may specify which provisions in other sections of this chapter the Administrator determines should be applicable to loans guaranteed or made under this section. The Administrator shall have such powers and responsibilities in respect to matters arising under this section as the Administrator has in respect to loans made or guaranteed or under other sections of this chapter.

(h)(1) No loan for the purchase of a [mobile] *manufactured* home shall be guaranteed under this section unless the [mobile] *manufactured* home and lot, if any, meet or exceed standards for planning, construction, and general acceptability as prescribed by the Administrator and no loan for the purchase of a lot on which to place a [mobile] *manufactured* home owned by a veteran shall be guaranted under this section unless the lot meets such standards prescribed for [mobile] *manufactured* home lots. Such standards shall be designed to encourage the maintenance and development of sites for [mobile] *manufactured* homes which will be attractive residential areas and which will be free from, and not substantially contribute to, adverse scenic or environmental conditions.

(2)(A) For the purpose of assuring compliance with the standards prescribed under paragraph (1) of this subsection, the Administrator shall from time to time inspect the manufacturing process of manufacturers of [mobile] *manufactured* homes sold to veterans utilizing assistance under this chapter. For the purpose stated in the preceding sentence and for the additional purpose of monitoring safety factors involved in the installation of [mobile] *manufactured* homes purchased through the utilization of assistance under this chapter, the Administrator shall from time to time conduct random onsite inspections of [mobile] *manufactured* homes purchased through the utilization of such assistance.

(B) The Administrator may, with the agreement of the Secretary of Housing and Urban Development, delegate to the Secretary of Housing and Urban Development the duty of the Administrator under subparagraph (A) of this paragraph to inspect the manufacturing process of manufacturers of [mobile] *manufactured* homes, but any such delegation shall be subject to an agreement that the Secretary of Housing and Urban Development, upon the request of the Administrator, shall promptly provide the Administrator with the complete results of any inspection made by the Secretary pursuant to such delegation. The Administrator shall have the right to withdraw any delegation under the preceding sentence at any time and in whole or in part.

(i) The Administrator shall require the manufacturer to become a warrantor of any new [mobile] *manufactured* home which is approved for purchase with financing through the assistance of this chapter and to furnish to the purchaser a written warranty in such form as the Administrator shall require. Such warranty shall include (1) a specific statement that the [mobile] *manufactured* home meets the standards prescribed by the Administrator pursuant to the provisions of subsection (h) of this section; and (2) a provision that the warrantor's liability to the purchaser or owner is limited under the warranty to instances of substantial nonconformity to such standards which become evident within one year from date of purchase and as to which the purchaser or owner gives written notice to the warrantor not later than ten days after the end of the warranty period. The warranty prescribed herein shall be in addition to, and not in derogation of, all other rights and privileges which such purchaser or owner may have under any other law or instrument and shall so provide in the warranty document.

(j) Subject to notice and opportunity for a hearing, the Administrator is authorized to deny guaranteed or direct loan financing in the case of [mobile] *manufactured* homes constructed by any manufacturer who refuses to permit the inspections provided for in subsection (h) of this section; or in the case of [mobile] *manufactured* homes which are determined by the Administrator not to conform to the aforesaid standards; or where the manufacturer of [mobile] *manufactured* homes fails or is unable to discharge the manufacturer's obligations under the warranty.

(k) Subject to notice and opportunity for a hearing, the Administrator may refuse to approve as acceptable any site in a [mobile] *manufactured* home park or subdivision owned or operated by any person whose rental or sale methods, procedures, requirements, or practices are determined by the Administrator to be unfair or prejudicial to veterans renting or purchasing such sites. The Administrator may also refuse to guarantee or make direct loans for veterans to purchase [mobile] *manufactured* homes offered for sale by any dealer if substantial deficiencies have been discovered in such homes, or if the Administrator determines that there has been a failure or indicated inability of the dealer to discharge contractual liabilities to veterans, or that the type of contract of sale or methods, procedures, or practices pursued by the dealer in the marketing of such properties have been unfair or prejudicial to veteran purchasers.

(l) The Administrator's annual report to Congress shall, beginning 12 months following the date of enactment of the Veterans' Housing Act of 1970, include a report on operations under this section, including the results of inspections required by subsection (h) of this section, experience with compliance with the warranty required by subsection (i) of this section, and the experience regarding defaults and foreclosures.

(m) The provisions of section 1804(d) and section 1821 of this chapter shall be fully applicable to lenders making guaranteed [mobile] *manufactured* home loans and [mobile] *manufactured* home lot loans and holders of such loans.

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CHAPTER 41—JOB COUNSELING, TRAINING, AND PLACEMENT SERVICE FOR VETERANS

Sec.
2001. Definitions.
2002. Purpose.
2002A. Assistant Secretary of Labor for Veterans' Employment.
[2003. Assignment of veterans' employment representative.]

2003. State and Assistant State Directors for Veterans' Employment.
2003A. Disabled veterans' outreach program.
2004. Employees of local offices.
2005. Cooperation of Federal agencies.
2006. Estimate of funds for administration; authorization of appropriations.
2007. Administrative controls; annual report.
2008. Cooperation and coordination with the Veterans' Administration.

* * * * * * *

§ 2002. Purpose

The Congress declares as its intent and purpose that there shall be an effective (1) job and job training counseling service program, (2) employment placement service program, and (3) job training placement service program for eligible veterans and eligible persons and that, to this end policies *and regulations* shall be promulgated and administered by an Assistant Secretary of Labor for Veterans' Employment, established by section 2002A of this title, through a Veterans' Employment Service within the Department of Labor, so as to provide such veterans and persons the maximum of employment and training opportunities, *with priority given to the needs of disabled veterans and veterans of the Vietnam era,* though existing programs, coordination and merger of programs and implementation of new programs.

§ 2002A. Assistant Secretary of Labor for Veterans' Employment

There is established within the Department of Labor an Assistant Secretary of Labor for Veterans' Employment, appointed by the President by and with the advice and consent of the Senate, who shall be the principal advisor to the Secretary of Labor with respect to the formulation and implementation of all departmental policies and procedures to carry out (1) the purposes of this chapter, chapter 42, and chapter 43 of this title, and (2) all other Department of Labor employment, unemployment, and training programs to the extent they affect veterans.

[§ 2003. Assignment of veterans' employment representative

[The Secretary of Labor shall assign to each State a representative of the Veterans' Employment Service to serve as the veterans' employment representative (and shall assign full-time clerical support to each such representative), and shall further assign to each State one assistant veterans' employment representative per each 250,000 veterans and eligible persons of the State veterans population, and such additional assistant veterans' employment representatives as the Secretary shall determine, based on the data collected pursuant to section 2007 of this title, to be necessary to assist the veterans' employment representative to carry out effectively in that State the purposes of this chapter. Each veterans' employment representative and assistant veterans' employment representative shall be an eligible veteran who at the time of appointment shall have been a bona fide resident of the State for at least two years and who shall be appointed in accordance with the provisions of title 5 governing appointments in the competitive service, and shall be paid in accordance with the provisions of chapter 51 of subchapter III of chapter 53 of such title, relating to classification and general schedule pay rates. Each such veterans' employment representative and assistant veterans' employment representative shall be attached to the staff of the public employment service system in the State to which they have been assigned. They shall be administratively responsible to the Secretary of Labor for the execution of the Secretary's veterans' and eligible presons' counseling and placement policies through the public employment service system and in cooperation with employment and training programs administered by the Secretary or by prime sponsors under the Comprehensive Employment and Training Act in the State. In cooperation with the public employment service system staff and the staffs of each such other program in the State, the veterans' employment representative and such representative's assistants shall—]

§2003. State and Assistant State Directors for Veterans' Employment

(a) The Secretary of Labor shall assign to each State a representative of the Veterans' Employment Service who shall serve as the State Director for Veterans' Employment, and shall assign full-time clerical support to each such Director. The Secretary shall also assign to each State one Assistant State Director for Veterans' Employment per each 250,000 veterans and eligible persons of the State veterans population and such additional Assistant State Directors for Veterans' Employment as the Secretary shall determine, based on the data collected pursuant to section 2007 of this title, as are necessary to carry out effectively the purposes of this chapter. Full-time Federal clerical support personnel assigned to State Directors for Veterans' Employment shall be appointed in accordance with the provisions of title 5 governing appointments in the competitive service and shall be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of such title.

(b) Each State Director for Veterans' Employment and each Assistant State Director for Veterans' Employment assigned to serve in any State (1) shall be an eligible veteran who at the time of appointment has been (A) a bona fide resident of the State for at least two years, or (B) if the Secretary, through the Assistant Secretary of Labor for Veterans' Employment, determines after a good faith search within the State that there is no eligible veteran available for appointment who meets such requirement and who is also qualified for the position, an Assistant State Director for Veterans' Employment for at least one year in any other State, and (2) shall be appointed in accordance with the provisions of title 5 governing appointments in the competitive service and be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of such title.

(c) Each State Director for Veterans' Employment and Assistant State Director for Veterans' Employment shall be attached to the public employment service system of the State to which such Director is assigned. Such Director shall be administratively responsible to the Secretary of Labor for the execution of the veterans' and eligible persons' counseling and placement policies of the Secretary through the public employment service system and in cooperation with other employment and training programs administered by the

Secretary, by other Federal jobs training program grantees in the State, or directly by the State.

(d) In cooperation with the staffs of the public employment service system and of each other program in the State described in subsection (c) of this section, the State Director for Veterans' Employment for the State and the Assistant State Director for Veterans' Employment for the State shall—

(1) be functionally responsible for the supervision of the registration of eligible veterans and eligible persons in local employment offices for suitable types of employment and training and for counseling and placement of eligible veterans and eligible persons in employment and job training programs;

(2) engage in job development and job advancement activities for eligible veterans and eligible persons, including maximum coordination with appropriate officials of the Veterans' Administration in that agency's carrying out of its responsibilities under subchapter IV of chapter 3 of this title and in the conduct of job fairs, job marts, and other special programs to match eligible veterans and eligible persons with appropriate job and job training opportunities;

(3) assist in securing and maintaining current information as to the various types of available employment and training opportunities, including maximum use of electronic data processing and telecommunications systems and the matching of an eligible veteran's or an eligible person's particular qualifications with an available job or on-job training or apprenticeship opportunity which is commensurate with those qualifications;

(4) promote the interest of employers and labor unions in employing eligible veterans and eligible persons and in conducting on-job training and apprenticeship programs for such veterans and persons;

(5) maintain regular contact with employers, labor unions, training programs and veterans' organizations with a view to keeping them advised of eligible veterans and eligible persons available for employment and training and to keeping eligible veterans and eligible persons advised of opportunities for employment and training;

(6) promote the participation of veterans in [Comprehensive Employment and training Act] *Federal employment and training* programs and monitor the implementation and operation of [Comprehensive Employment and Training Act] *such* programs to [assure] *ensure* that eligible veterans, disabled veterans, and veterans of the Vietnam era receive *such* special consideration [when required; and] *or priority in the provision of services as is required by law or regulation;*

(7) assist in every possible way in improving working conditions and the advancement of employment of eligible veterans and eligible persons[.]*;*

(8) supervise the listing of jobs and subsequent referrals of qualified veterans as required by section 2012 of this title;

(9) be responsible for ensuring that complaints of discrimination filed under section 2012 of this title are resolved in a timely fashion;

(10) working closely with appropriate Veterans' Administration officials, cooperate with employers in identifying disabled veterans who have completed or are enrolled in training under chapter 31 of this title;

(11) cooperate with the directors of the veterans' assistance offices established under section 242 of this title in identifying and assisting veterans who have readjustment problems and who may need employment placement assistance or vocational training assistance; and

(12) in the case of disabled veterans, where requested by Federal and State agencies and private employers, assist those entities in identifying and acquiring prosthetic and sensory aids and devices which tend to enhance disabled veterans' employability.

§ 2003A. Disabled veterans' outreach program

(a)(1) The Secretary of Labor shall make available **[to]** *for use in* each State, directly or by grant or contract, such funds as may be necessary to support a disabled veterans' outreach program designed to meet the employment needs of veterans, especially disabled veterans of the Vietnam era.

(2) Funds provided **[to]** *for use in* a State under this subsection shall be sufficient to support the appointment of one disabled veterans' outreach program specialist for each 5,300 veterans of the Vietnam era and disabled veterans residing in such State. Each such specialish shall be a veteran. Preference shall be given in the appointment of such specialists to disabled veterans of the Vietnam era. If the Secretary finds that a disabled veteran of the Veitnam era is not avialable for any such appointment, preference for such appointment shall be given to other disabled veterans. If the Secretary finds that no disabled veteran is available for such appointment, such appointment may be given to any veteran. Each such specialist shall be compensated at a rate not less than the rate prescribed for an entry level professional in the State government of the State concerned.

(3) The Secretary shall also make available **[to]** *for use in* the States such funds, in addition to those made available to carry out paragraphs (1) and (2) of this subsection, as may be necessary to support the reasonable expenses of such specialists for training, travel, supplies, and fringe benefits.

(4) Specialists appointed pursuant to paragraph (2) of this subsection shall be in addition to and shall not supplant employees assigned to local employment service offices pursuant to section 2004 of this title.

(5) The distribution and use of funds provided for use in States under this section shall be subject to the continuing supervision and monitoring of the Assistant Secretary for Veterans' Employment and shall not be governed by the provisions of any other law, or regulation prescribed thereunder, that is inconsistent with the provisions of this section.

(b)(1) Pursuant to regulations prescribed by the Secretary of Labor, disabled veterans' outreach program specialists shall be assigned only those duties directly related to meeting the employment needs of eligible veterans, with priority for the provision of services in the following order:

(A) Services to disabled veterans of the Vietnam era who are participating in or have completed a program of vocational rehabilitation under chapter 31 of this title.

(B) Services to other disabled veterans.

(C) Services to other eligible veterans in accordance with priorities determined by the Secretary taking into account applicable rates of unemployment and the employment emphases set forth in chapter 42 of this title.

In the provision of services in accordance with this paragraph, maximum emphasis in meeting the employment needs of veterans shall be placed on assisting economically or educationally disadvantaged veterans.

(2) Not more than three-fourths of the disabled veterans' outreach program specialists in each State shall be stationed at local employment service offices in such State, *except that the Secretary, after consultation with the appropriate State Directors assigned under section 2003 of this title, may grant waivers of such limitation as long as the percentage of such specialists so stationed in all States does not exceed 80 per centum of such specialists stationed in all States*. Specialists not so stationed shall be stationed at centers established by the Veterans' Administration to provide a program of readjustment counseling pursuant to section [621A] *612A* of this title, veterans assistance offices established by the Veterans' Administration pursuant to section 242 of this title, and such other sites as may be determined to be appropriate in accordance with regulations prescribed by the Secretary after consultation with the Administrator.

(c) Each disabled veterans' outreach program specialist shall carry out the following functions for the purpose of providing services to eligible veterans in accordance with the priorities set forth in subsection (b) of this section:

(1) Development of job and job training opportunities for such veterans through contacts with employers, especially small- and medium-size private sector employers.

(2) Pursuant to regulations prescribed by the Secretary after consultation with the Administrator, promotion, and development of apprenticeship and other on-job training positions pursuant to section 1787 of this title.

(3) The carrying out of outreach activities to locate such veterans through contacts with local veterans organizations, the Veterans' Administration, the State employment service agency and local employment service offices, and community-based organizations.

(4) Provision of appropriate assistance to community-based groups and organizations and [prime sponsors under the Comprehensive Employment and Training Act] *appropriate grantees under other Federal employment and training programs* in providing services to such veterans.

(5) Provision of appropriate assistance to local employment service office employees with responsibility for veterans in carrying out their responsibilities pursuant to this chapter.

(6) Consultation and coordination with other appropriate representatives of Federal, State, and local programs for the prupose of

developing maximum linkages to promote employment opportunities for and provide maximum employment assistance to such veterans.

(7) The carrying out of such other duties as will promote the development of entry-level and career job opportunities for such veterans.

(8) Development of outreach programs in cooperation with the Veterans' Administration's vocational rehabilitation staff, with insitutions of higher learning, and with employers to assure maximum assistance to disabled veterans who have completed or are enrolled in training under chapter 31 of this title.

[(d) Persons serving as staff in the disabled veterans outreach program conducted under title III of the Comprehensive Employment and Training Act on the date of enactment of this section shall be appointed as disabled veterans' outreach program specialists in the State in which such individual is so serving, unless the Secretary for good cause shown determines that such individual is not qualified for such appointment.**]**

[(e)**]***(d)* The Secretary of Labor shall administer the program provided for by this section through the Assistant Secretary of Labor for Veterans' Employment. *In administering the program provided for in this section, the Assistant Secretary of Labor for Veterans' Employment shall monitor the appointment of veterans to serve as disabled veteran outreach program specialists to ensure that appointments are made in accordance with the preference requirements prescribed in subsection (a)(2) of this section.*

* * * * * * *

§ 2006. Estimate of funds for administration; authorization of appropriations

(a) The Secretary of Labor shall estimate the funds necessary for the proper and efficient administration of this chapter *and chapters 42 and 43 of this title.* Such estimated sums shall include the annual amounts necessary for salaries, rents, printing and binding, travel, and communications. Sums thus estimated shall be included as a special item in the annual budget for the Department of Labor. *Estimates referred to in the preceding sentence shall include amounts necessary to fund the disabled veterans' outreach program under section 2003A of this title and shall be approved by the Secretary of Labor only if the level of funding proposed is in compliance with such section.* Estimated funds necessary for proper counseling, placement, and training services to eligible veterans and eligible persons provided by the various State public employment service agencies shall each be separately identified in the budgets of those agencies as approved by the Department of Labor. *The Secretary shall carry out the provisions of this subsection through the Assistant Secretary for Veterans' Employment.*

(b) There are authorized to be appropriated such sums as may be necessary for the proper and efficient administration of this chapter.

(c) In the event that the regular appropriations Act making appropriations for administrative expenses for the Department of Labor with respect to any fiscal year does not specify an amount for the purposes specified in subsection (b) of this section for that fiscal year, then of the amounts appropriated in such Act there shall be available only for the purposes specified in subsection (b) of this section such amount as was set forth in the budget estimate submitted pursuant to subsection (a) of this section.

(d) Any funds made available pursuant to subsections (b) and (c) of this section shall not be available for any purpose other than those specified in such subsections, except with the approval of the Secretary of Labor, *upon the recommendation of the Assistant Secretary of Labor for Veterans' Employment,* based on a demonstrated lack of need for such funds for such purposes.

§ 2007. Administrative controls; annual report

(a) * * *

* * * * * * *

(c) The Secretary of Labor shall report annually to the Congress on the success of the Department of Labor and its affiliated State employment service agencies in carrying out the provisions of this chapter. The report shall include, by State, specification of the numbers of eligible veterans, veterans of the Vietnam era, disabled veterans, special disabled veterans, and eligible persons who registered for assistance with the public employment service system and, of each of such categories, the number referred to jobs, the number placed in permanent jobs as defined by the Secretary, the number referred to and the number placed in employment and job training programs supported by the Federal Government, the number counseled, and the number who received some reportable service. The report shall include any determination by the Secretary under section 2004, 2006 or 2007(a), of this title and a statement of the reasons for such determination. *The report shall also include a report on activities carried out under section 2003A of this title.*

§ 2008. Cooperation and coordination with the Veterans' Administration

In carrying out the Secretary's responsibilities under this chapter, the Secretary of Labor shall from time to time consult with the Administrator and keep the Administrator fully advised of activities carried out and all data gathered pursuant to this chapter to insure maximum cooperation and coordination between the Department of Labor and the Veterans' Administration.

CHAPTER 42—EMPLOYMENT AND TRAINING OF DISABLED AND VIETNAM ERA VETERANS

* * * * * * *

§ 2011. Definitions

As used in this chapter—

(1) The term "special disabled veteran" means (A) a veteran who is entitled to compensation under laws administered by the Veterans' Administration for a disability rated at 30 percent or more, or (B) a person who was discharged or released from active duty because of service-connected disability.

(2)(A) Subject to subparagraph (B) of this paragraph, the term "veteran of the Vietnam era" means an eligible veteran any part of whose active military, naval, or air service was during the Vietnam era.

(B) No veteran may be considered to be a veteran of the Vietnam era under this paragraph after December 31, 1991.

(3) The term "disabled veteran" means (A) a veteran who is entitled to compensation under laws administered by the Veterans' Administration, or (B) a person who was discharged or released from active duty because of a service-connected disability.

(4) The term "eligible veteran" means a person who (A) served on active duty for a period of more than 180 days and was discharged or released therefrom with other than a dishonorable discharge, or (B) was discharged or released from active duty because of a service-connected disability.

[(5) The term "department or agency" means any agency of the Federal Government or the District of Columbia, including any Executive agency as defined in section 105 of title 5.]

(5) The terms "department or agency" and "department, agency, and instrumentality in the executive branch" each mean any agency of the Federal Government or the District of Columbia, including any Executive agency as defined in section 105 of title 5, and the United States Postal Service and the Postal Rate Commission.

§ 2012. Veterans' employmnet emphasis under Federal contracts

(a) * * *

* * * * * * *

(d)(1) Each contractor with respect to which subsection (a) of this section applies shall report at least annually to the Secretary of Labor on the number of veterans of the Vietnam era and the number of special disabled veterans in the work force of such contractor by job category and hiring location.

(2) The Secretary of Labor shall insure that the administration of the reporting requirement under paragraph (1) of this subsection is coordinated with respect to requirements for the contractor to make other reports to the Secretary of Labor.

* * * * * * *

Chapter 43—Veterans' Reemployment Rights

Sec.

2021. Right to reemployment of inducted persons; benefits protected.
2022. Enforcement procedures.
2023. Reemployment by the United States, territory, possession, or the District of Columbia.
2024. Rights of persons who enlist or are called to active duty; Reserves.
[2025. Assistance in obtaining reemployment.]
2025. Jurisdiction; assistance in obtaining reemployment.
2026. Prior rights for reemployment.

* * * * * * *

[§ 2025. Assistance in obtaining reemployment

[The Secretary of Labor, through the Office of Veterans' Reemployment Rights, shall render aid in the replacement in their former positions or reemployment of persons who have satisfactorily completed any period of active duty in the Armed Forces or the Public Health Service. In rendering such aid, the Secretary shall use existing Federal and State agencies engaged in similar or related activities and shall utilize the assistance of volunteers.]

§ 2025. Jurisiction; assistance in obtaining reemployment

(a) The Secretary of Labor shall carry out the provisions of this chapter through the Assistant Secretary of Labor for Veterans' Employment.

(b) The Secretary shall render aid in the replacement in their former positions or reemployment of persons who have satisfactorily completed any period of active duty in the Armed Forces or the Public Health Service. In rendering such aid, the Secretary shall use existing Federal and State agencies engaged in similar or related activities and shall utilize the assistance of volunteers.

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PART IV—GENERAL ADMINISTRATIVE PROVISIONS

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CHAPTER 53—SPECIAL PROVISIONS RELATING TO BENEFITS

* * * * * * *

§ 3102. Waiver of recovery of claims by the United States

(a) There shall be no recovery of payments or overpayments or interest thereon of any benefits under any of the laws administered by the Veterans' Administration whenever the Administrator determines that recovery would be against equity and good conscience, if an application for relief is made within [two years] *one hundred and eighty days* from the date of notification of the indebtedness by the Administrator to the payee, *or within such longer period as the Administrator determines is reasonable in a case in which the payee demonstrates to the satisfaction of the Administrator that such notification was not actually received by such payee within a reasonable period after such date.*

* * * * * * *

§ 3103A. Minimum active-duty service requirement

(a) * * *

* * * * * * *

(c)(1) Except as provided in paragraph (2) of this subsection, no dependent or survivor of a person as to whom subsection (b) of this section requires the denial of benefits shall, by reason of such person's period of active duty, be provided with any benefit under this title or any other law administered by the Veterans' Administration.

(2) Paragraph (1) of this subsection does not apply to benefits under chapters 19 and 37 of this title.

(d)(1) Notwithstanding any other provision of law and except as provided in paragraph (3) of this subsection, a person described in paragraph (2) of this subsection who is discharged or released from a period of active duty before completing the shorter of—

(A) twenty-four months of continuous active duty, or

(B) the full period for which such person was called or ordered to active duty,

is not eligible by reason of such period of active duty for benefits under Federal law (other than a law described in subsection (a) of this section) on the basis of such person's period of active duty, and no dependent or survivor of such person shall be eligible for such benefits on such basis.

(2) Paragraph (1) of this subsection applies—

(A) to any person who originally enlists in a regular component of the Armed Forces after September 7, 1980; and

(B) to any other person who enters on active duty on or after the date of the enactment of this subsection and has not previously completed a continuous period of active duty of at least twenty-four months or been discharged or released from active duty under section 1171 of title 10.

(3) Paragraph (1) of this subsection does not apply—

(A) to any person described in this subsection (b)(3) (A), (B), or (C) of this section; or

(B) to any benefit (i) under the Social Security Act other than additional wages deemed to have been paid, under section 229(a) of the Social Security Act (42 U.S.C. 429(a)), for any calendar quarter beginning on or after the date of the enactment of this subsection, or (ii) under title 5 other than benefits based on meeting the definition of preference eligible in section 2108(3) of such title.

[(d)**]** *(e)* For the purposes of this section, the term "benefit" includes a right or privilege *(including a right to special consideration, preference, priority, or similar advantage),* but does not include a refund of a participant's contributions to the educational benefits program provided by chapter 32 of this title.

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(f) Nothing in this section shall be construed to deprive any person of any procedural rights, including any rights to assistance in applying for or claiming a benefit.

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PART VI—ACQUISITION AND DISPOSITION OF PROPERTY

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CHAPTER 81—ACQUISITION AND OPERATION OF HOSPITAL AND CILIARY FACILITIES; PROCUREMENT AND SUPPLY

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Subchapter I—Acquisition and Operation of Medical Facilities

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§ 5010. Operation of medical facilities

(a)(1) * * *

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(b) When the Administrator determines, in accordance with regulations which the Administrator shall prescribe, that a Veterans' Administration facility serves a substantial number of veterans with limited English-speaking ability, the Administrator shall establish and implement procedures, upon the recommendations of the Chief Medical Director, to ensure the identification of sufficient numbers of individuals on such facility's staff who are fluent in both the language most appropriate to such veterans and in English and whose responsibilities shall include providing guidance to such veterans and to appropriate Veterans' Administration staff members with respect to cultural sensitivities and bridging linguistic and cultural differences.

(c)(1) Notwithstanding any other provision of law but except as provided in paragraph (2) of this subsection—

(A) no contract may be entered into as a result of which an activity at a health-care facility over which the Administrator has direct jurisdiction would be converted from an activity performed by employees of the Federal Government to an activity performed by individuals who are employees of a contractor of the Federal Government unless the Chief Medical Director has determined that such activity is not a direct patient care activity or an activity incident to direct patient care; and

(B) in the case of an activity determined by the Chief Medical Director under clause (A) of this paragraph to be neither such activity, the Administrator, after considering the advice of the Chief Medical Director and the result of a study described in subsection (a)(5) of this section, which study shall be based on an estimate of the most efficient and cost-effective organization for the effective performance of the activity by Veterans' Administration employees, may, in the exercise of the Administrator's sole discretion but only under the conditions described in the following sentence, enter into a contract as a result of which an activity at a health-care facility over which the Administrator has direct jurisdiction would be converted from an activity performed by employees of the Federal Government to an activity performed by individuals who are employees of a contractor of the Federal Government. The Administrator may enter into such a contract only if the Administrator determines that—

(i) over the proposed duration of the contract the cost to the Federal Government of (I) performing such activity under such contract plus (II) the conduct of such study would be not less than 10 percent lower than the cost of performance of such activity by employees of the Federal Government, and

(II) such contract would not result in a reduction in the quantity or quality of health-care services provided to eligi-

ble veterans by the Veterans' Administration at such facility.

(2) The provisions of paragraph (1) of this subsection do not apply (A) to any contract or agreement under chapter 17 or section 5011, 5011A, or 5053 of this title or section 686 of title 31, or (B) to a contract under section 4117 of this title if the Chief Medical Director determines that such contract is necessary to obtain services at a Veterans' Administration facility that could not otherwise be provided at such facility.

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Public Law 90-83

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[SEC. 6. (a) The Secretary of Labor shall act on any application for an Exemplary Rehabilitation Certificate received under this section from any person who was discharged or dismissed under conditions other than honorable, or who received a general discharge, at least three years before the date of receipt of such application.

[(b) In the case of any person discharged or dismissed from an armed force under conditions other than honorable before or after the enactment of this section, the Secretary of Labor may consider an application for, and issue to that person, an Exemplary Rehabilitation Certificate dated as of the date of issuance, if it is established to his satisfaction that such person has rehabilitated himself, that his character is good, and that his conduct, activities, and habits since he was so discharged or dismissed have been exemplary for a reasonable period of time, but not less than three years. The Secretary of Labor shall supply to the Secretary of Defense a copy of each Exemplary Rehabilitation Certificate which is issued, and the Secretary of Defense shall place it in the military personnel record of the individual to whom the certificate is issued.

[(c) For the purposes of subsection (b), oral and written evidence, or both, may be used, including—

[(1) a notarized statement from the chief law enforcement officer of the town, city, or county in which the applicant resides, attesting to his general reputation so far as police and court records are concerned;

[(2) a notarized statement from his employer, if employed, giving the employer's address, and attesting to the applicant's general reputation and employment record;

[(3) notarized statements from not less than five persons, attesting that they have personally known him for at least three years as a person of good reputation and exemplary conduct, and the extent of personal contact they have had with him; and

[(4) such independent investigations as the Secretary of Labor may make.

Any person making application under this section may appear in person or by counsel before the Secretary of Labor.

[(d) No benefits under any laws of the United States (including but not limited to those relating to pensions, compensation, hospitalization, military pay and allowances, education, loan guarantees, retired pay, or other benefits based on military service) shall accrue to any person to whom an Exemplary Rehabilitation Certificate is issued under subsection (b) unless he would be entitled to those benefits under his original discharge or dismissal.

[(e) The Secretary of Labor shall require that the national system of public employment offices established under the Act of June 6, 1933, chapter 49, as amended (29 U.S.C. 49 et seq.), accord to any person who has been discharged or dismissed under conditions other than honorable but who has been issued an Exemplary Rehabilitation Certificate special counseling and job development assistance.

[(f) The Secretary of Labor shall report to Congress not later than January 15 of each year the number of cases reviewed by him under this section and the number of Exemplary Rehabilitation Certificates issued.

[(g) In carrying out the provisions of this section the Secretary of Labor is authorized to (1) issue regulations; (2) delegate his authority; (3) utilize the services of the Civil Service Commission for making such investigations as may be mutually agreeable.]

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